

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9104 OF 2017

Janu Kalu Gharat and Others.

..Petitioners.

Versus

CIDCO & Others.

..Respondents.

Mr. Girish Godbole, Mr. Vaibhav Mehta i/b Vaibhav Menta & Associates
for the Petitioner.

Mrs. R. M. Shinde, AGP for the Respondent-State.

Mr. A. M. Kulkarni for CIDCO.

Coram : Ranjit More &
Smt. S. S. Jadhav, JJ.

Date : **April 23, 2018.**

P. C. :

1. Mr. Godbole, learned Counsel for the Petitioner does not dispute that the impugned order is appealable under section 47 of the Maharashtra Regional and Town Planning Act, 1966. In that view of the matter and since the Petitioner has an alternate remedy which is equally efficacious, Mr. Godbole seeks leave to withdraw the writ petition with liberty to avail alternate remedy. Leave with liberty as prayed for is granted. Petition is allowed to be withdrawn and is disposed of accordingly.

2. It is made clear that this Court has not gone into merits of the matter and all points and contentions of the respective parties are kept open. In the event, such an appeal is filed by the Petitioner, the same shall be decided by the appellate authority independently, on its own merits and in accordance with law.

3. In order to enable the Petitioner to approach the appellate authority, both parties, i.e., the Petitioner and CIDCO are directed to maintain status quo as of today of the subject structure for the period of four weeks from today. This includes that the Petitioners shall not create third party interest in the subject structure. In the event, appeal is filed within four weeks from today, the appellate authority shall dispose of the same as expeditiously as possible and preferably within the period of six months from the date of filing thereof.

4. In the event appeal is barred by limitation, the appellate authority shall consider the time spent by the Petitioner in prosecuting the cause in this Court and in this regard the Petitioner is entitled to take benefit of section 14 of the Limitation Act, 1963.

5. Writ petition stands disposed of.

[Smt. S. S. JADHAV, J.]

[RANJIT MORE, J.]