

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION (ST.) NO.24219 OF 2018
IN
WRIT PETITION NO.6512 OF 2018**

Mohd. Aleem Nizamuddin Siddiqui	...Applicant
In the matter between	
Shri Salim Shaikh	...Petitioner
Vs.	
State of Maharashtra & Ors.	...Respondents.

Mr.Amol Mhatre for Applicant.
Mr.Rohan Surve for Petitioner.
Ms.Nisha Mehra, AGP for Respondent Nos.1 and 2.
Mr.N.R. Bubna for Respondent Nos.3 to 7.

**CORAM : NARESH H. PATIL, ACTING C.J. AND
G.S. KULKARNI, J.**

DATE : 29th AUGUST 2018

P.C.:

On behalf of the applicant, it is submitted that there are certain documents annexed to the civil application stating that the subject building is not illegal and unauthorized. The learned Counsel for the applicant submits that an order of demolition has been passed on 17th July 2018. The original petitioner who is staying in the same locality had preferred writ petition No.6512 of 2018 on whose petition, the Division Bench of this Court has passed the order dated 20th July 2018.

2. The learned counsel for the applicant has submitted that for the

reasons as set out in the civil application, the applicant could not produce relevant documents before the Corporation authorities when the order dated 17th July 2018 was passed. From the record, we are satisfied that the applicant was prevented from participating and/or had not participated and had no opportunity to place material before the Municipal Corporation. In these circumstances, we are of the opinion that interest of justice would require that an opportunity be granted to the applicant to present the documents before the Municipal Corporation in support of the legality of the structure in question.

3. The learned Counsel appearing for the applicant submits that the available record in support of the contentions of the applicant would be presented before the designated officer of the Corporation within three weeks from today in appropriate application.

4. The learned Counsel for applicant submitted that in the meantime the order passed by the designated officer of the Corporation on 17th July 2018 may not be given effect.

5. Considering the material placed on record and the submissions advanced, we pass following order:-

ORDER

(a) The order dated 20th July 2018 passed by Division Bench of this

Court is recalled.

- (b) The applicant would submit an appropriate application with all the relevant documents in respect of his contention, to the designated officer of the Corporation within three weeks from today;
- (c) On receiving necessary documents, the designated officer of the Corporation would verify the record, if necessary, carry out local inspection and pass fresh order on its own merits and strictly in accordance with law within further four weeks from the date of presentation of the application and documents by the applicant;
- (d) If the applicant fails to submit the application alongwith the documents within three weeks from today, the order passed on 17th July 2018 by the designated officer of the Corporation and the order dated 20th July 2018 passed by this Court would get revived automatically;
- (e) In view of the above, the order passed on 17th July 2018 shall not be operated.

The writ petition and the civil application stand disposed of accordingly. No costs.

G.S. KULKARNI, J.

ACTING CHIEF JUSTICE