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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE
REVIEW PETITION (L) NO.15 OF 2018
IN
WRIT PETITION NO.3030 OF 2017

Noor Mohammad Shaikh

... Petitioner

Vs.

The Municipal Corporation of
Greater Mumbai and Ors.

... Respondents

Mr. Shantanu C. Chandratre for the Petitioner.

Ms. Vandana Mahadik for the Respondent - BMC.

Mr. Harakhchand Gada i/b. Harakhchand & Co. for the Respondent Nos.4
and 5.

CORAM : A.S.OKA AND RIYAZ I. CHAGLA, JJ.

DATE : 30th July 2018.

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P.C. :

1 Heard the learned counsel appearing for the Review Petitioner. The Review Petitioner is the petitioner in the writ petition who is seeking the review of the order dated 7th December 2017 passed in Writ Petition (L) No.3452 of 2017. By the order dated 12th January 2018 in a Petition for Special Leave to Appeal (L) No.243 of 2018 filed by the petitioner, the order dated 7th December 2017 has been confirmed. However, time has been granted to the petitioner to remove unauthorised construction. The Apex Court in the order has stated that if unauthorised construction is not removed by the petitioner till the end of June 2018, he will be liable for contempt of the Apex Court.

2 Review is sought of the following observations made in the order dated 7th December 2017 :-

“(1) When the writ petition was argued, it was conveyed to this Court by Mr. Chawan, the counsel for the petitioner that the petitioner has again applied for regularisation

and the acknowledgment of the receipt, is dated 20.11.2017. Though we had not referred to the said fact in the order dismissing the writ petition filed by the petitioner, the said fact was pointed out to us. At that time, we had not referred to the said fact in our order dismissing the writ petition as it is well settled that a party cannot again approach the authority for the same relief that is earlier rejected by that authority and the appeal against it is also rejected.”

(underline supplied)

3 The submission of the learned counsel appearing for the petitioner is that the application mentioned in the aforesaid part is not a second application for regularisation but it was a communication addressed to the Municipal Corporation for complying with the requisitions made in the application which was already pending. He, therefore, submits that a clarification be issued that what is referred in the aforesaid portion is not a second application for regularisation.

4 We have considered the submissions. We have perused the averments made in the review petition. This Court has recorded a statement made by the learned counsel appearing for the petitioner that the petitioner has again applied for regularisation and the acknowledgment receipt thereof is dated 20th November 2017. It is not the case made out in the review petition that either the petitioner committed an error while giving instructions to his advocate who made the said statement or that his advocate made the aforesaid statement due to mistake. The ground (a) in the Review Petition which reads thus :-

“a. The impugned order, the Hon'ble Court has wrongly assumed that the compliance of the requisite documents by the Petitioner amounted to new application for regularisation of the same structure which is rejected earlier by Respondent Corporation.”

(underline supplies)

5 The said ground is absurd and uncalled for. This Court has assumed nothing. All that this Court has done is to record the statement made by the Advocate for the Review Petitioner. There is no error apparent on the face of the record. Even otherwise there is no ground for review. The Review petition is rejected.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)