

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1921 OF 2018

Haroon Ebrahim Patel

... Petitioner

Versus

State of Maharashtra and anr.

... Respondents

Mr. Rajesh Khobragade for the petitioner.

Ms. P.H. Kantharia, G.P., for respondent nos. 1 and 2.

Mr. Saket Mone i/by Suneetkumar Tyagi for respondent no. 3.

**CORAM : SHANTANU KEMKAR &
SARANG V. KOTWAL, JJ.**

DATE : AUGUST 31, 2018

P.C.:

Parties through their counsel. With the consent of the parties, heard finally.

2. By filing this petition under Article 226 of the Constitution of India, the petitioner is seeking the following reliefs :

“a) Rule be issued.

b) That, the Hon'ble Court be please to issue Writ of Mandamus and/or any other Writ as per nature and circumstance, and direct the Respondent no. 2 The secretary Environment Department, Government of Maharashtra, Mantralaya to passed appropriate reasoning Order upon the Show Cause Notice dated 19-11-2010, bearing Ref. RTI 2009/CR-7/IT.C.3, within 4 (four) weeks and communicate

to the Petitioner.

c) That this Hon'ble High Court be please to issue Writ of Mandamus and/or any other Writ as per nature and circumstance, and direct the Respondent no. 2 the Secretary Environment Department, Government of Maharashtra, Mantralaya, not to grant any permissions in respect of the land bearing CTS No. 14, 166/A & B, 167 A & 171 of Village Majas Off the Jogeshwari Vikhroli Link Road, Mumbai.”

3. During the course of the hearing, respondent no. 3 has produced minutes of the meeting dated 7/6/2011 indicating therein that the petitioner's objection/representation has already been considered and rejected after taking into consideration various permissions obtained by respondent no. 3. However, the said fact is disputed by the petitioner as according to him, the matter was not closed for orders but was adjourned to 7/6/2011 and to that effect, communication was sent to the petitioner on 3/2/2012 Exhibit “D” and 13/2/2012 Exhibit “E”.

4. Be that as it may, taking a note of the fact that there is some dispute as to whether hearing took place on 7.6.2011 or not and whether any final order has been passed or not, as agreed by the learned counsel for the parties, we dispose of this petition by giving an opportunity to the petitioner and respondent no. 3 to present their respective case before the competent authority i.e. respondent no. 2, Secretary, Environment Department,

Government of Maharashtra. We request the Secretary to decide the matter afresh uninfluenced by so called decision dated 7/6/2011.

5. Before taking the decision as aforesaid, the Secretary shall give opportunity of hearing to the petitioner as also to respondent No. 3. Parties are at liberty to submit written submissions within two weeks from today before the said authority.

6. Parties to appear before the said authority on 24/9/2018 at 3.00 pm. The Secretary is expected to decide the matter within two months from the date of appearance of the parties before him.

7. With the aforesaid directions, petition is disposed of.

(SARANG V. KOTWAL, J.)

(SHANTANU KEMKAR, J.)