

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (LDG.) NO. 1894 OF 2018

JKD Hospitality Pvt.Ltd. ... Petitioner.
V/s.
The Municipal Corporation of Gr.Mumbai
and others. ... Respondents.

Mr.Mayur Khandeparkar with Mr.Jeetendra Mishra, Mr.Sanjay
Dubey and Ms.Ankita Upadhyay for the petitioner.
Ms.Vandana Mahadik for the respondent- MMC.
Ms.Jyoti Chavan, AGP for the respondent- State.

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

DATE : 20th June 2018.

P.C.:

Not on board. Taken up on board.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents. Perused the affidavit dated 15th June 2018 of the petitioner. The learned counsel appearing for the respondent- Corporation states that the statement made in paragraph- 5 of the affidavit has been complied with and fire escape balcony has been restored to its original position. We accept the said statement.

3. The learned counsel appearing for the petitioner states that as stated in the affidavit, the petitioner will apply for regularization of the

other unauthorized developments and for regularization of change of user within a period of two weeks from today. Similar statement has been made in the aforesaid affidavit. We accept the said statement.

4. As action has been taken under sub-section (1) of section 53 of the Maharashtra Regional and Town Planning Act, 1966 (for short “the MRTP Act”), the petitioner could have applied for regularization under sub-section (3) of section 53 of the MRTP Act.

5. Accordingly, we pass the following order:

- (i) It will be open for the petitioner to make an application for regularization through a licensed Architect by a prescribed mode and in a prescribed form in terms of paragraphs-3 and 4 of the affidavit dated 15th June 2018;
- (ii) If the application as aforesaid is filed within a period of fifteen days from today, the same shall be decided on its own merits as expeditiously as possible and, in any event, within a period of sixty days from the date of filing of the application. The order passed on the said application shall be communicated to the petitioner's Architect. Till the date of communication of the order to the petitioner's Architect, no action shall be taken on the basis of the impugned notice and the impugned order;

- (iii) In the event the order passed on the regularization application be adverse to the petitioner, the same protection shall continue to operate for a period of four weeks from the date on which the order is served on the petitioner's Architect;
- (iv) We make it clear that if the petitioner fails to apply for regularization within the stipulated period of fifteen days, it will be open for the respondent- Municipal Corporation to take action on the basis of the impugned notice and the impugned order;
- (v) All contentions on merits of the regularization application proposed to be made are kept open;
- (vi) Writ petition is disposed of on the above terms.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)