

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

WRIT PETITION LODGING NO.3283 OF 2018

Istiyaque Ahmed S/o.Abdul Majid Khan

.....Petitioner

versus

The State of Maharashtra and ors.

.....Respondents

Mr. V. T. Dubey, advocate for the petitioner.

Mr. A. L. Patki, AGP for the State.

Ms. K. H. Mastakar, advocate for the Corporation.

Mr. Chandra Naik, advocate for the applicant in chamber summons stamp No.421 of 2018.

**CORAM : RANJIT MORE &
REVATI MOHITE DERE, JJ.**

DATE : 29th NOVEMBER, 2018.

P. C. :

Heard learned counsel and learned AGP appearing for the respective parties.

2. The petitioner's application for regularisation of the offending structure is already rejected by the planning authority. Being aggrieved thereby, the petitioner has approached the appellate authority viz. Minister for Urban Development, State of Maharashtra, by filing an appeal under Section 47 of the Maharashtra Regional and Town Planning Act, 1966 (for short "the MRTP Act") as well as separate application for stay. A copy of the appeal is annexed at "Exhibit -A", page 16. The petitioner's grievance is that his appeal is not decided and, therefore, he has approached this Court.

3. Mr. Patki, learned AGP, makes as statement that direction may be issued to the appellate authority viz. Minister for Urban Development, State of Maharashtra, to decide the stay application of the petitioner.

4. In the above circumstances, in our considered view, this petition can conveniently be disposed of by directing the appellate authority viz. Minister for Urban Development, State of Maharashtra, to decide the petitioner's application for stay filed in the appeal under Section 47 of the MRTP Act, after hearing all concerned, as expeditiously as possible and, in any case, within a period of two weeks from the date of receipt of this order. Ordered accordingly.

5. The petitioner shall remain present before the appellate authority along with copies of the appeal, application for stay as well as this order on 4th December, 2018 at 3.00 p.m..

6. The petitioner shall furnish copies of the appeal under Section 47 of the MRTP Act as well as application for stay to the applicant in chamber summons stamp No.421 of 2018.

7. It is made clear that we have not gone into the merits of the matter and, all rights and contentions of the respective parties are kept

expressly open. The appellate authority viz. Minister for Urban Development, State of Maharashtra, shall decide the application for stay as well as the appeal independently on its own merits and in accordance with law.

8. In the light of the above order, the writ petition stands disposed of.

9. In view of the disposal of the petition, chamber summons stamp No.421 of 2018 will not survive for consideration and the same is also disposed of.

[REVATI MOHITE DERE, J.]

[RANJIT MORE, J.]