

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER STAMP NO. 21997 OF 2017

WITH

CIVIL APPLICATION STAMP NO.22538 OF 2017

Madhusudan Nagindas Sanghavi .. Appellant

Vs.

Municipal Corporation of Gr. Mumbai and ors. .. Respondents

Mr.P.K.Dhakephalkar, Senior Advocate a/w Mr.U.J. Mehta & Mr.J.S.Shukla I/b Vaibhav Mehta & Associates, for the Appellant.

Ms.Tanaya Goswami, AGP for State – Respondent No.3.

Mr.Sanjiv Sawant, for Respondent No.4.

Mrs.Madhuri More, for MCGM.

CORAM : M.S.KARNIK, J.

DATE : 26th JUNE, 2019

P.C. :

. Heard learned Counsel for the appellant and learned Counsel for the respondents.

2. Without stating the background facts in detail, suffice it to mention that the appellant is the tenant in respect of the suit premises. It is alleged by the appellant that on a complaint made by the landlord, the Municipal Corporation has

issued a notice under Section 53 of the Maharashtra Regional and Town Planning Act, 1966. It is alleged that the appellant who is running a pathology laboratory carried out unauthorised alterations in the suit premises one amongst them being lowering of the plinth.

3. Shri Dhakephalkar, learned Senior Counsel for the appellant would submit that the appellant has made an application for regularization which is pending consideration with the Corporation. He would however submit that the Corporation is not considering the application for regularization as the landlord is not giving the requisite no objection. Shri Sanjiv Sawant- learned Counsel appearing on behalf of the landlord, on instructions, submitted that without prejudice to the rights of the landlord in the eviction Suit filed, he has no objection if the application for regularization at the instance of the appellant is considered by the Corporation. It is therefore made clear that the NOC of the landlord is no more an impediment for the Corporation to consider the application for

regularization made by the appellant.

4. Smt.More learned Counsel appearing on behalf of the Corporation points out that the appellant has not made an application for regularization in the prescribed manner. According to her, the appellant has to submit the proposal on-line complying with the check-list which is annexed to the communication dated 02/12/2018 which is placed on record. Insofar as NOC from the Society/landlord is concerned, the same is waived in view of the what is stated hereinbefore.

5. Shri Dhakephalkar learned Senior Counsel appearing for the appellant, on instructions, would submit that necessary on-line proposal for regularization will be made by the appellant within a period of 4 weeks from today. Smt.More has handed over check-list of the documents which are required along with the proposal for regularization.

6. After the application is made for regularization, the

Corporation to decide the same within a period of 8 weeks from the date of submission of the application for regularization on its own merits and in accordance with law.

7. It is once again made clear that NOC which has been given by the landlord and which shall not now be an impediment for the Corporation to consider the application at the behest of the appellant is without prejudice to the rights of the landlord in the Suit for eviction filed against the appellant.

8. In this view of the matter, learned Senior Counsel for the appellant states that the necessary application would be made to the trial Court for withdrawal of the Suit.

9. The Appeal is disposed of on the above terms. Needless to mention that till the application for regularization is decided, the Corporation will not take any action against the suit structure pursuant to the notice issued.

10. In view of disposal of the Appeal from Order, Civil Application does not survive and the same shall stand disposed of accordingly.

(M.S.KARNIK, J.)