

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12339 OF 2016  
WITH  
CIVIL APPLICATION NO.1555 OF 2017

|                              |             |
|------------------------------|-------------|
| Ramnarayan S. Upadhyay }     |             |
| and Ors. }                   | Petitioners |
| versus                       |             |
| The Commissioner, }          |             |
| Kalyan Dombivali Municipal } |             |
| Corporation and Ors. }       | Respondents |

Mr.Yatin R.Shah for the petitioners.

Mr.A.S. Rao for respondent nos. 1 to 3.

Ms.M.P.Thakur-AGP for respondent no.4.

Ms.Anjana S.Patel-applicant in CAW/  
1555/2017.

CORAM :- S. C. DHARMADHIKARI &  
B. P. COLABAWALLA, JJ.

DATE :- MARCH 13, 2019

P.C. :-

1. The argument of the petitioners in this petition is that the completion certificate once granted was revoked only on the ground that a mobile tower has been erected without permission or approval from the Municipal Corporation. This argument presupposes that a prior permission is required and to erect a mobile tower, which is nothing but a structure or building within

the meaning of law. If that structure initially was erected without permission, but subsequently permission was granted, then, it is entirely for the Municipal Corporation to decide as to whether it should recall its earlier order cancelling the completion certificate or to continue it further. We do not think that now in the light of this subsequent development we should issue a direction to the Municipal Corporation to restore the completion certificate. We do not think that the High Court can issue such a direction for a completion certificate or other approvals are issued considering several factors which are relevant and germane to the construction permission or the development of the land.

2. Therefore, the petitioners are at liberty to move the Municipal Corporation and seek restoration of that completion certificate. If such an application is made, the same shall be considered and disposed of as expeditiously as possible and in any event, within a period of two months from the date of its receipt.

3. We clarify that we have not directed the Municipal Corporation to restore the completion certificate or otherwise. All contentions of the parties are kept open.

4. In the light of the fact that we have not passed any order in favour of the petitioners, we do not think that the civil application

should be entertained. In the event any proceedings are taken up by the petitioners, the applicant is at liberty to intervene therein. The civil application is also disposed of keeping open all contentions.

5. Mr.Rao appearing for the Municipal Corporation assures the court that without prejudice to the rights and contentions of the Municipal Corporation, till the orders in terms aforesaid are passed, the Municipal Corporation will not disconnect the water supply to the occupants of this building. Statement accepted.

6. The writ petition is disposed of accordingly.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)