

27.8.2019

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13541 OF 2018

Cogent Enterprises Limited ...Petitioner

V/s.

Lonavala Municipal Council

and Ors.Respondents

Mr. Pandit Kasar, Advocate for the petitioner.

Mr. Gurge A.A. for respondents no.1 to 3.

Mr. Y.S. Kochare, AGP for respondent no.4.

CORAM : B.P. DHARMADHIKARI, &

SANDEEP K. SHINDE, JJ.

Tuesday, 27th August, 2019.

P.C. :

1. Heard respective Counsel.

2. The petitioner seeks an order for direction to Planning Authority to consider request for regularisation in terms of Section 52A of the Maharashtra Regional Town Planning Act. The learned Counsel appearing for respondents no.1 to 3, as well as, learned AGP are opposing any intervention by this Court.

3. One Suresh Pujari has filed Writ Petition No. 8207 of 2016 for issuing direction to Municipal Council and State Government to complete action in terms of Section 53 of the MRTP Act.

4. The Counsel appearing for the said petitioner and learned Advocate appearing for Municipal Council submit that after service of notice under Section 53 of the MRTP Act, the petitioner had submitted an application under

Section 44 and it was already rejected. Contention is as such, there is no question of invoking very same exercise again.

5. In present petition on 3rd December, 2018 this Court has taken note of fact that application moved by present petitioner for regularisation was dismissed and Appeal against it was also dismissed. This Court has then looked into amended Section 52A and because of that provision, has protected the structure of the petitioner.

6. Various disputed questions including relevance of Section 52A in present matter arise. Only to show bonafides, the petitioner has made a statement that, if respondent no.2-Municipal Council is permitted to take suitable decision as per law in time bound manner, the petitioner will

27.8.2019

discontinue the user of offending structure till then. The learned Counsel also adds that, if after such consideration, decision of Municipal Council is adverse, a breathing time should be given to petitioner to take necessary steps.

7. The learned Counsel for Municipal Council is opposing grant of any such breathing time. He points out, prima-facie, the structure appears to have been raised in violation of Development Control Rules.

8. We need not, at this stage, go into any disputed question. Section 52A has been added to MRTP Act with some object and it has been given overriding effect over other provisions as also adjudications. Hence, without observing anything more, we direct respondent-Municipal Council to

27.8.2019

hear the petitioner, M/s. Cogent Enterprises Limited as also other petitioner namely, Suresh Pujari and take suitable decision on application for regularisation moved by present petitioner within eight weeks from today.

9. If such decision is adverse to M/s. Cogent Enterprises Limited, it shall not be given effect to for further period of three weeks.

10. It is open to parties to file their Affidavits and documents, if any, in the meanwhile within two weeks.

11. With these directions, the petition is disposed of.

(SANDEEP K. SHINDE, J.)

(B.P. DHARMADHIKARI, J.)