

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

WRIT PETITION (Ld.) NO. 716 OF 2019

Subhash Baburam yadav.

..Petitioner.

Versus

MCGM & Others.

..Respondents.

Mr. A. K. Ansari for the Petitioner.

Mr. Himanshu Takke, AGP for the Respondent-State.

Ms. Sheetal Metkar for MCGM.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **March 6, 2019.**

P. C. :

1. Heard learned counsel appearing for the respective parties.

2. The Respondent-Corporation has issued notice under Section 55 of the Maharashtra Regional and Town Planning Act, 1966 to the Petitioner, who is owner of the mobile tower for erection of unauthorized temporary cell site/tower. Similar notice is also issued to the occupier of the land. It is the case of the petitioner that already he has made an application dated 26th February, 2019, for permission for setting up of telecommunication cell site/tower. Learned counsel for the Corporation, however, submits that this application is

forwarded to Building and Proposal Department. A copy of the said application is annexed at Exhibit-D [page 26] to the petition. Having seen copy of the said application, we find that the same is not for regularisation, however, the petitioner has sought permission to set-up telecommunication cell site/tower.

3. In the light of above, the learned counsel for the petitioner submits that liberty may be granted to the petitioner to make an application for regularisation and protection may be granted to the petitioner till the competent authority of the respondent No.1 decides the petitioner's said application. The learned counsel for the Respondent-Corporation makes a statement that if the application for regularisation is made by the petitioner, appropriate decision would be taken in accordance with law.

4. In the backdrop of above, we dispose of this petition by passing the following order :

:- O R D E R :-

[1] It will be open for the petitioner to make an online application to the respondent-Municipal Corporation for regularisation of the mobile tower through a licensed Architect.

[2] If such an application is made by the Petitioner within a period of two weeks from today, the same shall be decided within a period of four weeks from the date of receipt of the application.

[3] The order passed on the application shall be communicated to the petitioner or his licensed architect.

[4] Till the communication of the said order to the petitioner / his licensed architect, as the case may be, the status quo as of today in respect of the tower shall be maintained. If the order passed on the application for regularisation be adverse to the petitioner, the said protection shall continue to operate for a period of two weeks from the date of communication of the order to the petitioner or his licensed architect.

[5] If the application for regularisation is not filed within the period stipulated above, the Corporation is at liberty to implement the notice impugned in the petition.

[6] All concerned to act upon a copy of this order duly authenticated by the Registry of this Court.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]