

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

WRIT PETITION (L) NO. 1464 OF 2019

Jayesh Jinabhai Gohil	}	Petitioner
versus		
The Municipal Corporation of	}	
Greater Mumbai and Ors.	}	Respondents

Mr.Suresh S.Lanke for the petitioner.

Ms.Vandana Mahadik for respondent nos.
1 to 3 (MCGM).

Mr.Parag Nikale-Sub Engineer (Building
Proposals), P/South Ward present.

**CORAM :- S. C. DHARMADHIKARI &
M. S. KARNIK, JJ.**

DATE :- MAY 3, 2019

P.C. :-

1. The Municipal Corporation granted a Commencement Certificate (CC)/ Intimation of Dis-approval (IOD). That is issued on 4th May, 2018 as per the modified Development Control Regulations, 1991. That is to enable the petitioner to construct a building of stilt plus 1 to 5 upper residential floors by demolishing the existing building. This CC, in terms of section 45 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the MRTP Act") is pursuant to a development permission sought by the petitioner under section 44 thereof. It is valid up to 3rd May, 2019.

2. The argument of Mr.Lanke is that all terms and conditions of this CC/IOD are complied with save and except one condition of providing alternate accommodation to the existing tenants and producing copies of the agreement/consent letters. Mr.Lanke would submit that the petitioner made all the efforts and the Architect's letter would denote that out of 15 occupants of the old structure, 10 have executed such consent letters in favour of the petitioner. The remaining 5 are non-co-operative. The petitioner is trying his level best to convince them. If the validity period is extended, then alone this is possible, else, the whole project would be frustrated.

3. Though we are not in agreement with Mr.Lanke as far as his last submission is concerned, particularly in the teeth of the language of section 48 of the MRTP Act, but in the facts and circumstances peculiar to this case and as other terms and conditions have been complied with, we are of the opinion that the validity period of this IOD/CC can safely be extended by one year. It shall stand extended up to 3rd May, 2020.

4. We have invited the attention of Mr.Lanke and the learned advocate appearing for the Municipal Corporation to section 48 of the MRTP Act, which provides for an outer limit of a period of one year, after which, the permissions granted under sections 45 and

47 of the MRTP Act would lapse. However, there are two provisos to the said section and they enable extension of IOD/CC/Development permission by three years, beyond which, in the event the development is not carried out up to the level mentioned in the second proviso, the applicant would have to apply for fresh permission. Thus, it is not as if the whole project would be at a stand still, leave alone frustrated, but the petitioner would have to seek a fresh permission. That is if the petitioner fails to comply with the terms and conditions of the existing IOD/CC by 3rd May, 2020.

5. We grant this extension to the existing IOD/CC up to 3rd May, 2020. No alteration of the terms and conditions has been effected by this extension.

6. The writ petition is disposed of with the consent of the parties at this stage itself. There would be no order as to costs.

(M.S.KARNIK, J.)

(S.C.DHARMADHIKARI, J.)