

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.144 OF 2016

Jayselan Shanmugam Pillay & Ors.

..Petitioners

vs.

Estate Officer, Khadki Cantonment
Board & Anr.

..Respondents

.....

Mr. Amol Gate, Advocate for Petitioners.

Mr. Arun K. Roy, Advocate for Respondent No.1.

Mr. Ranjeer Carbvahlo a/w. Pooja Tated Singhvi i/b. Parinam Law
Associates, Advocate for Respondent No.2.

Mr. S. D. Rayrikar, AGP for Respondent / State.

CORAM : C.V. BHADANG, J.

DATE : 15th JANUARY, 2020

P.C.

. This petition was heard on 12/1/2017. On the previous date, Mr. Anturkar, learned Senior counsel for the petitioners, on instructions, stated that the petitioner is withdrawing his challenge to the impugned order on merits. The only contention is that the Cantonment Board is required to ascertain whether the petitioner is entitled for composition under Section 248 of the Cantonments Act, 2006 ('Act' for short). The contention is that as per the first proviso to Section 248 of the said Act, the Board may instead of requiring alteration or demolition of any such building or part thereof, accept by way of composition such sum as it thinks reasonable. The contention is that the petitioner shall apply to the Cantonment Board for such composition on terms as may be decided by the

Cantonment Board. It is submitted that such application shall be made within a period of two weeks.

2. Learned counsel appearing for the Cantonment Board, on instructions, states that on such application being filed, the Cantonment Board shall decide the same on its own merits and in accordance with law within a period of two weeks thereafter. The statement so made is accepted. He submitted that this shall not be taken as a precedent for any other case.

3. In my considered view in the peculiar facts and circumstances of the case, and in as much as the petitioner has withdrawn his challenge to the impugned order, without this being treated as a precedent, the petition is disposed of in the following terms.

ORDER

1. The petitioner shall be at liberty to file an application for composition in accordance with the first proviso to Section 248 of the Cantonment Board Act and if such application is filed, the Cantonment Board shall decide the same within a period of two weeks thereafter on its own merits and in accordance with law.

2. The rival contentions of the parties are left open. In the circumstance, there shall be no order as to costs.

C.V. BHADANG, J.