

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

958 WRIT PETITION NO.6404 OF 2019

RAMNARAYAN BINJRAJ TOSHNIWAL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. B. R. Warma, h/f Mr. Gopal C. Navandar.

AGP for Respondent/State: Mr. A. R. Kale.

Advocate for Respondent No.5 : Mr. Devanand Y. Nandedkar.

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CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.

DATE : 11th August, 2021.

P.C.:

. The petitioner assails the order dated 1st October, 2018. Under the said order, it is held that the appeal is not tenable. Mr. Warma, learned counsel for petitioners submits that the petitioners are directed to pay additional charges of Rs.5,28,000/- as 5% on the valuation. The respondents are valuing the property as on July 2018. The same is erroneous. The earlier application was made under Section 44 of the Maharashtra Land Revenue Code to the Collector as required under the statute. The tentative non-agricultural permission was also granted, but the petitioners were directed to approach the Municipal Council and the application was given to the Municipal Council on 4th January, 2017. The respondents could not have valued

the property as in 2018. The valuation as on the date of application, is required to be considered.

2 The learned counsel for the respondents submits that the application was given to the Municipal Council on 4th January, 2017. The same is allowed on 3rd July, 2018 and rightly the petitioners are directed to pay the 5% amount on the valuation as on that day.

3 It is not disputed that the petitioners had filed application for grant of NA permission with the Municipal Council on 4th January, 2017. The same shall be the relevant date for consideration of the valuation of the property.

4 We had in catena of judgments held that the valuation has to be made on the date of application. Reference can be had to the order of the Division Bench of this Court in Writ Petition No.10339 of 2019 dated 13th January, 2020.

5 In light of the above, we pass the following order:

ORDER

- I. The impugned order to the extent of directing the petitioners to pay the amount

of Rs.5,28,000/- is set aside.

II. The respondents shall value the property of the petitioners for which the permission is sought as on 4th January, 2017 and thereafter, pass the orders for the payment of the amount.

III. The writ petition is allowed in above terms.

No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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