

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

12 WRIT PETITION NO.7216 OF 2021

SAYYADA FARIDABEGUM W/O MOHAMMAD ANEES AHMED
VERSUS
THE STATE OF MAHARASHTRA THROUGH
THE PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. Suresh P. Pandav
AGP for Respondent : Mr. S.G. Sangale
Advocate for Respondent nos. 2 and 3 : Mr. A.P. Bhandari
Advocate for respondent no. 7 : Mr. M.S. Karad h/f Mr. S.S. Thombre
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**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 13TH DECEMBER 2021

PC :

1. We have briefly heard the learned counsel for the respective sides. Though the petitioner is aggrieved by an ad-interim order dated 26-03-2021 passed by the Assistant Director, Town Planning, Municipal Corporation, Aurangabad, temporarily cancelling the construction permission, a final order has been passed on 15-04-2021, thereby cancelling the regularization permission as well as the construction permission. By the doctrine of merger, the interim order merges into the final order.

2. There is no dispute that the petitioner has a statutory remedy available under section 47 of the Maharashtra Regional and Town Planning Act, 1966.

3. The petitioner has preferred Regular Civil Suit no. 30 of 2020 for challenging the temporary cancellation order dated 26-03-2021. The learned counsel for the petitioner submits, on instructions, that the petitioner would withdraw the said proceedings by 18-12-2021.

4. Considering the above, this petition is disposed off with the following directions :

(A) The petitioner shall prefer the Appeal under section 47 of the Maharashtra Regional and Town Planning Act, before the competent Appellate authority, on or before 23-12-2021.

(B) If the above direction is complied with, the ad-interim protection granted by this Court vide order dated 09-07-2021, shall continue till 07-01-2022, to enable the petitioner to seek interim orders from the competent appellate authority. We make it clear that the competent appellate authority would pass an order, as it deems fit and proper on the merits of such an application for interim relief, if filed, without being influenced by this order.

(C) The competent appellate authority shall decide the said proceedings, after granting a reasonable opportunity of hearing to all the sides, on or before 28-02-2022.

[S.G. MEHARE, J.]

[RAVINDRA V. GHUGE, J.]

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