

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2071 OF 2021

Mahavir Bhaskarrao Kadam ... Petitioner

Versus

State of Maharashtra & Ors. ... Respondents

Mr.S.S.Patwardhan a/w. Mr. B.R.Mandlik for the Petitioner.

Ms.M.P.Thakur, AGP for the State.

Mr. J.S.Aradhwa (Reddy) for Respondent No. 2.

CORAM : S.J. KATHAWALLA, &
MILIND N. JADHAV, JJ.

DATE : 24TH JUNE, 2021

(THROUGH VIDEO CONFERENCING)

P.C. :

1. The Petitioner – Mahavir Bhaskarrao Kadam has filed the above Writ Petition seeking the following reliefs against the Respondent No. 1 – The State of Maharashtra through the Secretary, Department of Urban Development and Respondent No. 2 – Barshi Municipal Council :

“A. That this Hon’ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus thereby directing the Respondent No. 2 Municipal Council to forthwith proceed to conclude its action under Section 37(1) of the Maharashtra Regional and Town Planning Act, 1966, in terms of its General Body Resolution No. 130 dated 26.02.2021, Exhibit I hereto

and submit its proposal to the Respondent No. 1.

B. That this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus thereby directing Respondent No. 1 State to further proceed with the process under Section 37(2) of the Maharashtra Regional and Town Planning Act, 1966, within such time this Hon'ble Court deems just and proper subject to the time limit of two months."

2. It is submitted on behalf of the Petitioner as follows :

2.1. The Petitioner is the owner of the land bearing city survey No. 3854 at Barshi, Dist. Solapur (**the said Land**).

2.2. That by an application dated 16th November, 2015 the Petitioner had applied for building permission to carry out construction on the said land.

2.3. That on 5th May, 2016 the Respondent No. 2 - Council had granted building permission to the Petitioner.

2.4. That the Petitioner, due to some inevitable circumstances was unable to immediately start the construction. He therefore obtained revised building permissions on 26th May, 2017 and 8th January, 2018.

2.5. That on 10th April, 2018 the Respondent No. 2 - Council also issued a plinth checking certificate in respect of the Petitioner's construction.

2.6. That since minor internal alterations/ additions (deviations) had occasioned in the said construction the Petitioner filed an application dated 24th June, 2020 under Regulation 7.4 of the Development Control Regulations (**the said**

Regulations) before the Respondent No. 2 Council, seeking approval.

2.7. That on 29th October, 2020 the Respondent No. 2 - Council rejected the Petitioner's application under Regulation 7.4 of the said Regulations on the ground that some part on the northern side of his building is affected by the 18 meters wide development plan road.

2.8. That the Petitioner made a representation dated 19th November, 2020 requesting Respondent No. 2 - Council to take action under Section 37 of the Maharashtra Regional Town Planning Act, 1966 (**MRTTP Act**).

2.9. That the General Body of Respondent No. 2 - Council accepted the Petitioner's request and by Resolution No. 130 dated 26th February, 2021 resolved to undertake the action proposed by the Petitioner under Section 37 of the MRTTP Act.

2.10. That since the Respondent No. 2 - Council has thereafter not taken any steps to take the said proposal forward, the Petitioner is compelled to file the present Petition seeking reliefs as set out in paragraph 1 above.

3. The learned Advocate appearing for Respondent No. 2 - Council on instructions from Smt. Amita Dagade - Patil, Chief Officer of Respondent No. 2 - Council undertakes to this Court as follows :

i. That the Chief Officer of Respondent No. 2 - Council will hear the 2500 suggestions and objections received from the members of the public in respect of the subject modification of the development plan and submit her report to the General Body of Barshi Municipal Council on or before 24th July, 2021 as contemplated under

Section 37(1) of the MRTP Act, 1966.

ii. The Chief Officer of the Respondent No. 2 - Council will ensure that the General Body of Barshi Municipal Council shall hold a General Body Meeting and take its decision on or before 10th August, 2021.

iii. The Chief Officer of the Respondent No. 2 - Council will submit her report to the State Government to that effect on or before 15th August, 2021 as contemplated under Section 37(1) of the MRTP Act, 1966.

All the above undertakings are accepted.

4. The State of Maharashtra, Urban Development Department shall proceed to further process the proposal received from the Respondent No. 2 - Council under Section 37(2) of the MRTP Act and take its decision not later than 8 weeks from the date of receipt of the report / proposal from the Chief Officer of the Respondent No. 2 - Council.

5. The above Writ Petition is accordingly disposed off.

(MILIND N. JADHAV, J.)

(S.J. KATHAWALLA, J.)