

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

**INTERIM APPLICATION NO. 3231 OF 2021
IN
APPEAL FROM ORDER NO. 248 OF 2021**

Chhotelal Chunilal Yadav

... Applicant

V/s.

Municipal Commissioner for Greater
Mumbai & Anr.

... Respondents

Mr.Chetan Yadav, E. K. Dongardive, Tushar Momaiyah i/b. Mr. Jitendra G. Damani for the Applicant.

Mr.Rajesh Patil a/w Mr. Om Suryawanshi for the Respondent – MCGM.

Mr. Rakesh Agarwal for the Intervenor.

**CORAM: MADHAV JAMDAR, J.
(VACATION COURT)**

DATE : 10TH NOVEMBER, 2021

P.C:-

1. Yesterday, I have heard Mr. Soni, the learned advocate for the Applicant and the matter was kept today for the Respondent – Corporation to take instructions.

2. Today, Mr. Rajesh Patil, the learned advocate appeared for the Municipal Corporation of Greater Mumbai, and submitted that the Application filed by the Applicant is not in proper format, and not filed through Architect / License Surveyor, and therefore the same was rejected.

3. Perusal of letter dated 21st October, 2021 of Executive Engineer (B.P) W. S. II R Ward shows that following three reasons are given for rejection of the Application for regularization :-

- 1. The proposal is not submitted online through Architect / License Surveyor.*
- 2. The proposal is not submitted as per the provisions of M.R.T.P Act, 1966, MMC Act, 1988 and D.C.PR. 2034.*
- 3. The structure under reference is already constructed on site, which needs regularization, is not as per the provisions of DCPR 2034.*

4. The said Order dated 21st October, 2021, clearly shows that the same has been passed in clear breach of Order dated 27th September, 2021 passed by this Court. By the said order, the Respondent – MCGM was directed to decide the application for regularization on its own merits and as per the provisions of law.

5. The Order dated 21st October, 2021 clearly shows that very vague reasons are given and it is not specifically mentioned as to why the structure on the site cannot be regularized, and the provisions of various enactments prohibiting regularization are not specified. Therefore, in the interest of justice the following order is passed;

ORDER

- a) The Applicant shall submit hard copy of the regularization proposal with E.E.(B.P) R Ward through Architect / License Surveyor within two weeks from today. The Architect / License Surveyor to also submit regularization proposal by online

method, if possible.

- b) It such proposal is filed, the Respondent-MCGM is directed to pass a reasoned order on the said proposal by giving personal hearing, if it is prayed by the Applicant.
- c) It is made clear that the MCGM shall decide the regularization proposal in accordance with law and all contentions of the parties in that behalf are kept open.
- d) Ad-interim relief granted by Order dated 6th June, 2019 which was continued by Order dated 27th September, 2021, to continue till the disposal of the proposal by MCGM and the communication of the decision/order of MCGM to the Applicant.
- e) It is further directed that if the regularization proposal of the Applicant is rejected then the ad-interim relief to continue for two weeks thereafter.

6. Mr. R. K. Agarwal, the learned advocate appears for the Intervener / the owner of the property. It is clarified that the owner is at liberty to file an appropriate Application with E.E.(B.P) R Ward to give him hearing at the time of deciding the regularization application. If such Application is filed by the owner, then the Executive Engineer, (B.P), W.S.II R Ward is directed to hear the owner

and pass an appropriate order.

7. The above Interim Application is disposed of in the above terms.

[MADHAV JAMDAR, J.]

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