

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO.1345 OF 2021

IN

WRIT PETITION NO.309 OF 2021

**MUNICIPAL CORPORATION OF GREATER)
MUMBAI AND OTHERS)...APPLICANTS**

IN THE MATTER BETWEEN

**WARREN D'SOUZA)...PETITIONER
V/s.**

**MUNICIPAL CORPORATION OF GREATER)
MUMBAI AND OTHERS)...RESPONDENTS**

Mr.Anoop Patil a/w. Ms.Vandana Mahadik i/b. Ms.Aruna Savla,
Advocate for the Applicants / Original Respondent Nos.1 and 2.

Mr.Dhaval Shethia i/b. Mr.Adithya R. Iyer, Advocate for the
Petitioner.

Mr.Amit Shastri, Assistant Government Pleader for Respondent
No.3 / State.

**CORAM : R. D. DHANUKA &
V. G. BISHT, JJ.**

DATE : 1st JULY 2021

P.C. :

1 By this interim application, the applicant seeks modification of the order dated 25th January 2021 passed by this Court in Writ Petition (L) No.2190 of 2021 thereby directing the Competent Authority to decide the application “Exhibit D” filed by the petitioner on page 26 of the writ petition as an application under Section 44 of the MRTP Act and to dispose off the said application within four weeks from the date of the said order, after hearing the petitioner.

2 The Executive Engineer, Building Proposals (W.S.) ‘H’ Ward passed an order on 11th February 2021 directing the petitioner to submit his proposal within fifteen days from the date of the hearing order through Auto DCR system, through Licensed Surveyor / Registered Architect on the guidelines of Ease of Doing Business (EODB) along with all requisite documents as specified in Appendix IV of the DCPR 2034. It is stated in the said order that on receipt of said online proposal, it shall be

processed on merits as per the provision of DCPR 2034 and policies in force on compliance of all requisite documents / fees etc. by AE (BP) H/West Ward.

3 Pursuant to the liberty granted by this Court vide an order dated 25th March 2021 passed in Writ Petition (L) No.8268 of 2021 filed by the petitioner praying for modification of the order dated 25th January 2021 while permitting the Municipal Corporation to withdraw the impugned speaking order dated 6th March 2021, the Municipal Corporation has filed this interim application inter alia praying for modification of the said order dated 25th January 2021 as set out in Prayer Clause (b).

4 We have heard the learned counsel for the parties. The learned counsel for the applicant (Municipal Corporation) states that in view of the guidelines of Ease of Doing Business (EODB), the petitioner will have to apply only through online for regularisation under Section 44 of the MRTP Act along with documents. He submits that as per the order, the application has

to be submitted within a period of fifteen days through auto DCR system, through Licensed Surveyor / Registered Architect as per the guidelines of Ease of Doing Business (EODB) along with various requisite documents with a view to expedite the application for regularisation under Section 44 of the MRTP Act. The said order passed by the Executive Engineer is not to harass the petitioner.

5 The learned counsel for the petitioner on the other hand submits that this argument was advanced before this Court when the said Writ Petition (L) No.2190 of 2021 was argued. We do not find any prejudice to the petitioner if he is called upon to submit the application under Section 44 of the MRTP Act online along with documents through auto DCR system, through Licensed Surveyor / Registered Architect as per the guidelines of Ease of Doing Business (EODB) along with requisite documents. The filing of the application through the Licensed Surveyor / Registered Architect would be appropriate for the purpose of deciding the application for regularisation under Section 44 of

the MRTP Act expeditiously. We, accordingly, pass the following order :

ORDER

- i) The interim application is made absolute in terms of Prayer Clause (b).
- ii) The application shall be filed by the petitioner within four weeks from today along with the requisite documents in accordance with the order passed by the Executive Engineer on 11th February 2021.
- iii) If the said application, as may be filed by the petitioner, is in order, the Executive Engineer, Building Proposals, (W.S.) 'H' Ward, shall dispose off the said application within eight weeks from the date of receipt of such application.
- iv) It is made clear that we have not expressed any views on merits of the said application for regularisation which was

made earlier by the petitioner and the application that would be made by the petitioner pursuant to this order.

- v) The interim application is disposed off in aforesaid terms.
- vi) There shall be no orders as to costs.

(V. G. BISHT, J.)

(R.D.DHANUKA, J.)