

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

Writ Petition No.342 of 2022

Damodar Narayan Bhoir & anr.	...	Petitioner
V/s.		
Pen Municipal Council & anr.	...	Respondents

Mr. Rajesh Datar i/b. Akshay J. Khandarkar for the Petitioner.

Mr. N.N.Badrashete i/b. Ms. Priyankar Badrashete for Respondent No.1.

Mr. N.K. Rajpurohit, AGP for Respondent No.2.

**CORAM : PRASANNA B. VARALE
& SHRIKANT D. KULKARNI, JJ.**

17th June 2022

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On perusal of the Petition, it reveals that prayers are two fold, firstly, seeking direction to Respondent No.1 to grant building permission to the Petitioner in pursuance to the application dated 8th August 2021 and secondly, payment of compensation towards damages to the Petitioner. Insofar as second prayer is concerned, as the Petitioner can certainly avail an efficacious remedy for redressal of his grievance in the nature of approaching competent Civil Court, we are

not inclined to entertain this prayer. At this stage, the learned Counsel submits that Petitioner be permitted to avail the said remedy.

2. In view of this statement, we permit the Petitioner to avail appropriate efficacious remedy and we make it clear that as we have not made any observations on merits, if such remedy is exhausted, the competent Court/Authority to take decision on the merits of the proceedings. The second prayer is in relation to direction for grant of building permission to the Petitioner. Now it seems that in response to application dated 8th August 2021, Respondent Corporation replied the Petitioner by indicating certain deficiencies. The Counsel for Petitioner submits that Petitioner be permitted to file fresh application to the authority and the Petitioner before filing such an application would try to remove the deficiencies which are within his control. Accordingly, the Petitioner is permitted to file a fresh application to Respondent-Pen Municipal Council within three weeks from today. If such an application is submitted to Respondent No.1, Respondent No.1 to decide the same on its merits by giving an opportunity for hearing to the parties. Such decision be awarded as expeditiously as possible and not later than 10 weeks from the date of receipt of application by the Petitioner.

3. With these directions, Writ Petition is disposed of.

4. All concerned to act on an authenticated copy of the order.

SHRIKANT D. KULKARNI, J

PRASANNA B. VARALE, J

L.S. Panjwani, P.S.