

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.18905 OF 2022
IN
WRIT PETITION NO. 782 OF 2020

Rameshchandra S. Shah	..Applicant
IN THE MATTER BETWEEN	
Savita L. Jain	..Petitioner
Versus	
The State of Maharashtra & Ors	..Respondents

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Mr. Jaswant Singh, Advocates for the Applicant.

Mr. P. B. Shah, Advocates for the Orig. Petitioner.

Mr. R. .S. Pawar, AGP, Respondent State.

**CORAM : B. P. COLABAWALLA, J &
M. M. SATHAYE, JJ.**
DATE : AUGUST 10, 2023

P.C.

The above Interim Application is filed seeking to recall the order passed by this Court on 27th January, 2020. Since it is a very short order, the same is reproduced hereunder:-

“1. The above Writ Petition is fled by the Petitioner inter alia seeking following relief :

“(b) This Court be pleased to issue an appropriate Writ and / or Order and / or directions thereby directing the Respondent Nos. 2 and 3 to demolish the illegal and unauthorized constructions carried out by the Respondent Nos. 4 and 6 being structure of ground plus two floors situated on 1556, 1557 and 1558 Municipal Corporation Vasai Virar City, Ward No. 5 (New Ward No. 11) Village Malonde, Taluka Vasai, District Palghar owned by the Petitioner.”

2. *The learned Senior Advocate appearing for the Corporation on instructions states that a notice dated 19th August, 2016 (Exhibit-E to the Writ Petition) has been issued to Respondent No. 4 under Sections 52, 53 and 54 of the Maharashtra Regional and Town Planning Act, 1966 and the Corporation shall forthwith take action pursuant to the same. The statement is accepted as an undertaking given to this Court.*

3. *The Writ Petition is accordingly disposed of.”*

2 When we put it to the learned counsel appearing on behalf of the Applicant that this order does not in any way affect the rights of Respondent No.4, he submitted that this order is being misinterpreted by the parties to mean that no challenge can be laid by Respondent No.4 to the notice dated 19th August, 2016 issued to Respondent No.4 under Sections 52, 53 & 54 of the Maharashtra Regional and Town Planning Act, 1966.

3 After hearing the learned counsel for the Applicant as well as the learned counsel for the Petitioner, we hereby clarify that the order dated 27th January, 2020 does not in any way affect the rights of Respondent No.4 to challenge the notice dated 19th August, 2016. If such a challenge is made, and which we are informed is already done by filing a Suit in the Civil Judge, Junior

Division, Vasai, being RCS No.184 of 2020, the same shall be decided on its own merits and in accordance with law.

4 We clarify that the Civil Judge, Junior Division, Vasai, shall hear RCS No.184 of 2020 on its own merits and in accordance with law without being influenced by the order passed by this Court on 27th January, 2020. Once this clarification is given, there is absolutely no requirement to recall the order passed.

5 Interim Application is accordingly disposed of. No order as to costs.

6 This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M. M. SATHAYE, J.]

[B. P. COLABAWALLA, J].