

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1361 OF 2023

Prabhakar Pandurang Chorghe	] .. Petitioner
Vs.	
1. The Municipal Corporation of Cities	]
of Vasai and Virar, Dist. Palghar	]
2. Sunil Jagannath Chorghe	]
3. The Deputy Superintendent, Land Records,	]
Vasai, Dist. Palghar	] .. Respondents

Mr. Narendra Walawalkar, Sr. Advocate, with Mr. Suresh Sabrad, Ms. Gracy Saldanha, Mr. Pratik Sabrad and Mr. Amey Sawant, for the Petitioner.

Ms. Swati Sagvekar for Respondent No.1-Municipal Corporation.

Mr. Sachin J. Kadam for Respondent No.2.

Ms. M.P. Thakur, AGP for Respondent No.3-State.

CORAM : SUNIL B. SHUKRE & R.N. LADDHA, JJ

DATE : 8TH JUNE, 2023.

ORAL JUDGMENT : { Per Sunil B. Shukre, J. }

1. **RULE.** Rule is made returnable forthwith. Heard finally, by consent of learned Senior Advocate for the petitioner, learned counsel for respondent no.2 and learned AGP for respondent no.3-State.

2. Bare perusal of the impugned order dated 18th November 2022 passed by the Commissioner, Vasai Virar City Municipal Corporation is sufficient to come

to the conclusion that it is not the speaking order and appears to have been passed without any application of mind to multiple objections taken by the petitioner. It is also seen that the learned Commissioner has passed the impugned order mechanically, which is evident from the fact that the only reason he has given for rejecting the objections of the petitioner is that the petitioner failed to substantiate his argument by submitting authentic documents regarding grant of permission, whereas, the factual position obtaining on record, as seen from the impugned order itself, is that many of the objections raised by the petitioner have been admitted by the Architect of the contesting respondent.

3. Such an order is anathema to the principle of rule of law, which is well established in our Constitutional Jurisprudence and, therefore, the impugned order cannot be sustained in the eye of law. Accordingly, we pass the following order :-

- (i) The petition is allowed and the impugned order dated 18th November 2022 passed by the Commissioner, Vasai Virar City Municipal Corporation is hereby quashed and set aside and the matter is again remanded to the respondent no.1-Municipal Corporation for its consideration afresh, after giving appropriate opportunity of hearing to the contesting parties in accordance with the law, as expeditiously as possible, preferably within three months

from the date of appearance of the parties before respondent no.1-Municipal Corporation.

- (ii) In addition, respondent no.1-Municipal Corporation shall also consider the aspect of balancing of equities in the present matter pending final decision on the representation made by the petitioner.
- (iii) The contesting parties shall appear before the respondent no.1-Municipal Corporation on 27th June 2023 at 11:00 a.m.

4. Rule is made absolute in the above terms. Petition is disposed of.

[R.N. LADDHA, J.]

[SUNIL B. SHUKRE, J.]