

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO. 4839 of 2021

Prasanna s/o Suresh Turak

vs.

Hon'ble Minister, State Town Planning Department, Mumbai and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S. P. Kshirsagar, Advocate for petitioner.
Shri S.M.Ghodeswar, Assistant Government Pleader for respondent no.1.
Shri M.I.Dhatrak, Advocate for respondent no.2.
Shri A.S.Manohar, Advocate for respondent no.3.

CORAM :- A.S.CHANDURKAR AND MRS.VRUSHALI V. JOSHI, JJ.
DATE :- JANUARY 02, 2023.

P. C.

Heard.

The petitioner seeks a direction to be issued to permit him to continue with the proceedings filed under Section 44 of the Maharashtra Regional and Town Planning Act, 1966 (for short, the said Act) that was preferred before the State Government.

After hearing the learned counsel for the parties order dated 28.09.2022 came to be passed wherein it was observed that despite grant of opportunity to the petitioner to take steps under Section 44 of the said Act by moving an application before the Planning Authority, the petitioner had preferred an appeal before the State Government. Hence time was granted to the learned counsel for the petitioner to take appropriate steps, if advised, for raising a challenge to the notice dated 10.06.2021.

The petitioner has now filed Civil Application No. 2917 of 2022 seeking to rely upon various subsequent events. It stated that

the petitioner has on 13.10.2022 moved an application for retention of the construction made by the petitioner as stated in that application.

We find that the interest of justice would be served by directing the respondent no.2-Municipal Council, Ramtek to decide the application dated 13.10.2022 in accordance with law after giving due opportunity of hearing to the petitioner. It is noted that though the interim relief granted by this Court on 29.11.2021 has been vacated on 06.12.2022, the said interim order operated for a further period of two weeks. Hence the application dated 13.10.2022 be decided as having been presented after the expiry of the stay period. If any decision adverse to the interest of the petitioner is taken on the said application, the same may not be given effect for ten days.

Keeping the points raised by the petitioner as well as the respondents open, the writ petition stands disposed of. No costs. Pending civil application, if any, also stand disposed of.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.