



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 CRIMINAL WRIT PETITION NO. 1392 OF 2023

Dattoba Ravji Bhosale
VERSUS
The Chief Officer and others

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Advocate for the Petitioner : Mr. V.D. Salunke
Advocate for Respondent Nos 1 and 2: Mr. A.T. Jagtap
Advocate for Respondent No.3 : Mr. Ashok Mundhe

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CORAM : SHIVKUMAR DIGE, J.
DATED : 29th AUGUST, 2024.

PER COURT :-

1. The petitioner challenges the impugned order dated 14.8.2023 passed by the Chief Officer, Municipal Council, Tuljapur. By the said order, the Chief Officer has directed to lodge the complaint against the petitioner under Section 53 of the Maharashtra Regional Town Planning Act, 1966 (for short "M.R.T.P. Act").

2. It is the contention of the learned counsel for the petitioner that the petitioner has made construction with permission of the respondent No.1. Thereafter, on the complaint of respondent No.3 a notice was issued to the petitioner for illegal construction. The petitioner replied the said notice. Thereafter, without giving opportunity of hearing, the impugned order has been passed to lodge the complaint against the petitioner under section 53 of M.R.T.P. Act,

which is erroneous. Hence, requested to allow the writ petition.

3. It is the contention of learned counsel for respondent Nos. 1 and 2 that the notice was issued to the petitioner for making illegal construction. The said notice was replied by the petitioner and after considering the allegations in the complaint and the reply filed by the petitioner, the respondent No.1 has passed the order. So it cannot be said that no opportunity of hearing was given to the petitioner. Hence, requested to dismiss the writ petition.

4. Learned counsel for respondent No.3 supported the submissions of learned counsel for respondent No.1 and 2.

5. I have heard all learned counsel. Perused the impugned order passed by the respondent No.1 dated 14.8.2023. In the said order, the respondent No.1 has observed that the petitioner has made construction beyond the permission and not as per the permission granted to him, hence the direction was given to lodge the complaint against the petitioner under Section 53 of M.R.T.P. Act. It appears from the said order that the construction permission was given to the petitioner by respondent No.1 but he has made the construction beyond the permission. It appears that mere on produced documents said order has been passed. No opportunity of

hearing was given to the petitioner. Hence, I deem it fit to remand the matter to respondent No.1 to pass fresh order by giving opportunity of hearing to the petitioner. Hence, I pass the following order:-

O R D E R

- I. The writ petition is partly allowed.
- II. The impugned order dated 14.08.2023 passed by respondent No.1 is quashed and set aside.
- III. The petitioner shall appear before respondent No.1. The respondent No.1 shall give hearing to the petitioner on the complaint of respondent No.3. After giving opportunity of hearing to both the parties, the respondent No.1 shall pass fresh order.

(SHIVKUMAR DIGE, J.)

rlj/