



Darshan Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13624 OF 2024

Jeram Ganesha Patel

...Petitioner

Versus

Kalyan Dombivli Municipal Corporation and ...Respondents
Ors.

Mr Pandit Kasar, for the Petitioner.

Mr Rupali Shinde, AGP, for Respondent No.4 – State.

CORAM M.S. Sonak &
 Kamal Khata, JJ.
DATED: 01 October 2024

PC:-

1. Heard Mr Kasar for the petitioner.
2. The petitioner challenges the order dated 24 September 2024, by which the Kalyan Dombivli Municipal Corporation (“KDMC”) has directed the petitioner to demolish the illegal construction described in the order.
3. Mr Kasar submits that the order is not clear as much as the illegal construction is not described correctly. He submits that the petitioner purchased this structure from an erstwhile owner by sale deed dated 18 December 2014, and the petitioner’s name is also recorded in the Revenue Records. He

submitted that because the structure was not adequately described in the show cause notice, the petitioner was not able to defend the structure. He accordingly submits that the impugned order violates the principles of natural justice.

4. Mr Kasar, without prejudice, submitted that the petitioner is ready to apply for regularisation under Section 52A of the Maharashtra Regional Town Planning Act (“**MRTP Act**”). He submits that the structure was admittedly put up before 31 December 2015; therefore, it is compoundable. He submitted that the KDMC may be restrained from enforcing its order until the petitioner applies for compounding and such application is disposed of following the law.

5. We have considered the submissions made by Mr Kasar and also perused the documents on record.

6. Admittedly, the construction is not backed by any permissions from KDMC. If the building was purchased by the petitioner in 2014, nothing prevented the petitioner from applying for compounding, assuming that the provisions of Section 52A of the MRTP Act applied to the petitioner's structure. The structure was adequately described in the show cause notice. During the hearing, no grievance was raised about the description. Even now, the petitioner has annexed the photographs showing the structure. The argument that the structure comprises only teen sheets to protect the petitioner's property is belied from the pictures produced on record.

7. Besides, if the structure is only some teen sheets to protect the property, then no significant prejudice will be caused if such teen sheets are removed. After that, the petitioner applies for proper permission from the KDMC to put up a legal and authorised structure.

8. For the above reasons, we dismiss this petition without any orders for costs.

(Kamal Khata, J)

(M.S. Sonak, J)