



Darshan Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1161 OF 2024

Lavanya R. Shetty

...Petitioner

Versus

The Estate Manager Zone 2 and Ors.

...Respondents

Ms Veena Thadhani, *a/w Ms Bharti Nyaynirgune and Ms Rutuja Gaikwad for the Petitioner.*

Mr Himanshu Takke, *AGP, for the Respondent-State.*

Mr S B Talekar, *a/w Ms Madhavi Ayyapan i/b Talekar and Ass. for the Respondent-MHADA.*

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 27th June 2024

PC:-

1. Heard learned counsel for the parties.
2. The challenge in this petition concerns the order/communication dated 27th July 2023, by which respondent No.1 rejected the petitioner's application to change the user of gala No.3 from residential to non-residential.
3. The communication dated 27th July 2023 was issued on the petitioner's application for change of user pursuant to the liberty granted to the petitioner by respondent No.2 in its order dated 12th January 2023. This order dated 12th January 2023 granted the petitioner liberty to apply for a change of user *inter alia* by referring

to resolution No. 5553 dated 27th March 2000 of the Administration Department of MHADA. The order stated that if the application made by the petitioner is rejected by a properly reasoned order, the petitioner would be required to stop using gala No.3 for non-residential purposes but could continue to use the same for residential purposes in accordance with the approved plans. Now, before the communication dated 27th July 2023 was made, the petitioner was not heard.

4. Considering the chequered history of the matter, we think that the petitioner should have been heard before this communication was made. Besides, perusing the order/communication dated 27th July 2023, we find no reasons to sustain the conclusion recorded therein.

5. For the above two reasons, we set aside the order/communication dated 27th July 2023 and direct the concerned official of MHADA to reconsider such application and dispose of same by making a reasoned order. The concerned official must also hear the petitioner.

6. At this stage, Mr Talekar states that the petitioner can appear for a hearing before the concerned official on 02nd July 2024 at 11.00 a.m. He says that the concerned official will pass a reasoned order in accordance with law and on its own merits not later than 09th July 2024.

7. Considering the short timeline within which the matter can be disposed of and the fact that Gala No.3 is indicated as a residential area in the original approved plans, we are not inclined to de-seal Gala No.3 at this stage. However, if, for any reason, the matter is not decided by 09th July 2024 and the reasoned order is not

communicated to the petitioner by the said date, MHADA must de-seal Gala No.3 forthwith.

8. Ms Thadhani submits that this entire exercise is at the behest of some politicians who have even addressed letters to MHADA. She submits that this Court should direct that MHADA officials should decide this matter without being influenced by the said letter.

9. Mr Talekar states that the letters will not be considered, and therefore, the matter will be decided uninfluenced by them. The statement is accepted.

10. Ms Thadani states that the petitioner will attend the hearing on 02nd July 2024 at 11.00 a.m. and under no circumstances seek any adjournment. If the petitioner wishes to file any other material before the official, the same should be filed on 02nd July 2024 itself at the time of the hearing. All such materials must be considered, and the petitioner's request must be disposed of by making a reasoned order.

11. The Writ Petition is disposed of in the above terms. There shall be no orders as to the costs.

12. All concerned to act on the authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)