

2025:BHC-AS:9923



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3427 OF 2024

Arun Purushottam Merchant

... Petitioner

Vs.

The State of Maharashtra & Ors.

... Respondents

Mr. Amit Sale with Mr. Shivprasad Vernekar i/b. Tanoj Joshi for the petitioner.

Mr. T.J. Kapre a/s. Mr. Ketan Joshi, 'B' Panel counsel for respondent nos. 1 and 2.

Mr. Anand Khairnar i/b. Komal Punjabi for respondent no. 3-MCGM.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
DATED: 26 FEBRUARY 2025

P.C.

1. This petition under Article 226 of the Constitution of India is filed praying for the following substantive relief:

- a) Rule be issued, record and proceedings be called for;
- b) This Hon'ble Court be pleased to quash and set aside the impugned letter/order dated 23.05.2022 issued by respondent no. 1 herein.
- c) This Hon'ble Court also be pleased to quash and set aside the impugned order dated 02.02.1980 passed by respondent no. 2 herein.
- d) That this Hon'ble Court direct respondent no. 2 to revert back the said plot, i.e., CTS Nos. 896/3 & 896/6 reserved for Garden/Park (ROS-1.2) & Residential (R) as per prevailing DP-2034 or to compensation in lieu of Land Acquisition under "The Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013."

2. Learned counsel for the petitioner has brought to our notice that the petitioner has approached this Court in prior proceedings, i.e., Writ Petition

(St.) No. 97862 of 2020 on the similar issue assailing the order under Section 21 of the Urban Land (Ceiling and Regulation) Act, 1976 dated 28 September, 2007, when on 5 February, 2021 the Division Bench heard the parties and passed the following order:

- “1. Heard.
2. Rule.
3. By consent of the parties, Rule is made returnable forthwith and the matter is taken up for final hearing.
4. Learned AGP for the Respondents submits that as per earlier order passed by this Court, the concerned Officer is present in Court along with entire appeal records filed by the Petitioner challenging the order under Section 21 of the Urban Land (Ceiling and Regulation) Act, 1976 dated 28.09.2007.
5. The learned counsel for the Petitioner submits that she received instructions from her client that the Respondents be directed to decide his appeal, Page 38, Exhibit-C, as early as possible. Hence, she is not pressing other relief in the present Writ Petition.
6. The learned AGP, after taking instructions from the concerned officer, who is present in Court, submits that they will decide the Petitioner’s appeal as early as possible, but in any case, on or before 31.03.2021 after following due process of law and communicate the order to the Petitioner.
7. Considering the submissions made by the learned counsel for the parties, the following order is passed:
 - a. Rule is made absolute in terms of prayer clause (c) with directions to the Respondent to decide the appeal, Page 38, Exhibit-C, to the petition, as early as possible, but in any case, on or before 31.03.2021, after hearing the Petitioner and communicate the order to the Petitioner.

Prayer clause (c) reads thus:

“(c) In the alternative this Hon’ble Court be pleased to direct the Respondent No.1 to hear and decide the Appeal/ Revision Application as expeditiously as possible and preferably within a period of two months.”

- b. No order as to costs.

3. Learned counsel for the petitioner has submitted that in pursuance of the aforesaid order passed by this Court, the State Government was supposed to hear the petitioner on the appeal as expeditiously as possible on or before 31 March, 2021 and after hearing the petitioner, communicate this order. He submitted that no such order was communicated and in fact in these circumstances, the petitioner moved an application under Right to Information Act, which was replied by the Section Officer of the concerned department vide letter dated 23 May, 2022 informing the petitioner that the appeal has been rejected.

4. We have perused the communicated dated 23 May, 2022. We are in agreement with Mr. Sale when he contends that such communication cannot be in any manner considered as an order and that too passed in pursuance of the directions of this Court as noted by us hereinabove. The order does not record any reason when a hearing was granted to the petitioner as contended. In this view of the matter, we are inclined to dispose of this petition in terms of the following order:

ORDER

- (i) The impugned communicated dated 23 May, 2022 is quashed and set aside. The concerned authority is directed to hear the petitioner afresh and pass a speaking order on the

petitioner's appeal and in terms of what has been directed by the Division Bench in its order dated 5 February, 2021. This be undertaken within a period of six weeks from today.

(ii) The contentions in that regard are expressly kept open.

5. Disposed of in the aforesaid terms. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)