

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10461 OF 2025

Padma Developers

....Petitioner

Versus

Kalyan Dombivali Municipal Corporation & Anr.Respondents

Mr. Sumit Kothari for the Petitioner.

Mr. Sandeep D. Shinde for Respondent No.1.

CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 8th SEPTEMBER, 2025

P.C. :-

1. We have heard the learned Advocates for the Petitioner and the Corporation. With their assistance, we have gone through the Petition Paper Book.

2. The only grievance of the Petitioner is that he applied for permission to construct a building described as stilt plus 1st to 8th floor. In all, the Petitioner desires construction permission for a building with a stilt plus eight floors. However, the impugned decision grants permission only for construction from the stilt plus the 1st floor to the 7th floor.

3. The Petitioner contends that Section 47 of the Maharashtra Regional and Town Planning Act, 1966 does not permit the Petitioner to challenge the impugned decision since it is not an order. We find that the said submission is misplaced. Section 47 providing for an Appeal reads as under :

47. Appeal.

(1) Any applicant aggrieved by an order granting permission on conditions or refusing permission under section 45 may, within forty days of the date of communication of the order to him, prefer an appeal to the State Government or to an officer appointed by the State Government in this behalf, being an officer not below the rank of a Deputy Secretary to Government; and such appeal shall be made in such manner and accompanied by such fees (if any) as may be prescribed.

(2) The State Government or the officer so appointed may, after giving a reasonable opportunity to the appellant and the Planning Authority to be heard, by order dismiss the appeal, or allow the appeal by granting permission unconditionally or subject to the conditions as modified.

4. As such, the Petitioner is partially aggrieved by the order granting permission, *albeit*, permitting construction only up to the stilt plus 1st to 7th floors, thereby refusing permission for the 8th floor. The Petitioner, on the third day after the passing of the said order dated 26th July, 2024, made a specific representation to the

Authorities requesting reconsideration and granting permission for construction up to the 8th floor. The said representation is still pending.

5. Considering the above, we direct the Corporation to take a decision on the said representation and pass a reasoned order within 30 days from today. If the order results in the grant of permission, the matter could be considered as closed. However, if permission for constructing the 8th floor is refused, a reasoned order shall be served upon the Petitioner by email, within five days from the date of its passing. The email address of the Petitioner is as under :

kelkarsuyash01@gmail.com

6. Since the learned Advocate for the Corporation submits, on instructions, that the Petitioner can appear before the Town Planner on 25th September, 2025 at 12 noon, that the Petitioner is permitted to participate in the said hearing, personally. If required, written notes of submissions may also be tendered, which would be considered by the Authorities while deciding the fate of the representation.

7. Since the tendering of a representation is not prescribed by law, we are permitting the Corporation to decide the representation based on the peculiar facts and circumstances of this case. This order shall not be cited as a precedent.

8. We find it appropriate to note that if the Petitioner's representation is rejected, the Corporation would intimate the Petitioner of the statutory remedy available to challenge the said order and the Petitioner shall avail of the said remedy, rather than rushing to this Court.

9. With the above observations and directions, **this Petition is disposed off.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)