

S.H.HADAP

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1047 OF 2012

Rajendra Pundalikrao Godshalwar .. Petitioner
V/s
Union of India & Ors. .. Respondents

Mr.Sanjay Kadam with Ms.Apeksha Sharma i/by M/s.Kadam & Co.for
the petitioner.

Mr.Parag A.Vyas with Mr.Vinod Joshi for Respondent No.1.

Mr.B.H.Mehta, AGP for State.

Ms.Sharmila Modle with Ms.Yamuna Parekh for Mumbai Municipal
Corporation.

Ms.Sharmila Deshmukh for Respondent No.3.

**CORAM: MOHIT S.SHAH, C.J. &
N.M.JAMDAR, J.**

DATE: 2nd July, 2012

P.C.:

Ms.Sharmila Deshmukh, learned counsel for Respondent No.3 -
MCZMA tenders affidavit in reply dated 30.06.2012 filed on behalf of
Respondent No.3. In the said affidavit it is set out that 60 applications are
pending for consideration before MCZMA. The petitioner's allegation that
500 applications were pending before MCZMA is denied.

2. Learned counsel for MCZMA further states that the petitioner's
application for environmental clearance will be considered at the next
meeting of MCZMA as has been communicated to the petitioner vide

letter dated 26th June, 2012 at Exh. 'D' to the reply affidavit.

3. Learned counsel for MCZMA therefore submits that it would not be necessary to constitute committees for consideration of proposals granting environmental clearances for redevelopment of existing properties in CRZ II area, as suggested by this Court in the order dated 14th June, 2012.

4. While we have noted the stand of learned counsel for MCZMA that it is not necessary to set up committees for considering such proposals, we find some substance in the submissions being made by learned counsel for the petitioner that the Municipal Corporation need not refuse to consider the petitioner's application for building permissions and should not stop considering the building plans submitted by the petitioner, merely on the ground that the environmental clearance has not been granted by MCZMA.

5. It appears that the Municipal Corporation has to ensure that the developer obtains all necessary NOCs/ clearances from various authorities as per the relevant statutory provisions and regulations. At the same time, the Corporation can continue to process the applications for building permissions and building plans and treat the environmental clearance from MCZMA as one of the requirements, just as the developer is required to submit NOC/clearance from other authorities.

6. The Municipal Corporation however cannot, must not and shall not issue the commencement certificate before receiving the environmental clearance from MCZMA. In other words, the Municipal Corporation

shall continue to process the petitioner's application for building permissions, such as his application for IOD. However, the application for commencement certificate shall be processed only after receiving environmental clearance from MCZMA and other requisite NOCz/permissions from other authorities.

7. It is clarified that these directions are given in the peculiar facts of this case and without prejudice to the petitioner's contention that the petitioner does not require any environmental clearance from MCZMA for the reasons stated in the petition. We are not expressing any opinion on the above contention, since the petitioner's application for environmental clearance is already pending before MCZMA.

8. Stand over to 1st August, 2012.

CHIEF JUSTICE

(N.M.JAMDAR, J.)