

pmw

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3155 OF 2014**

Pandurang Vinayak Jadhav and Ors.	... Petitioners
Versus	
Pen Municipal Council & Ors.	... Respondents

Mr. Chidamber G. Gavnekar for the Petitioners.
Mr. N.N. Bhadrashete for the Respondent No.1.
Mr. V.S. Gokhale, AGP for Respondent Nos.4 to 6.

**CORAM : A.S. OKA &
G.S. PATEL, JJ.**

DATE : 14th DECEMBER, 2015

P.C.

1. Heard the learned counsel appearing for the Petitioners. At the outset, he pointed out affidavit filed by the first Petitioner by way of rejoinder in which he has explained as to how mistake has crept in Exhibit-A.

2. The General Body of the first Respondent – Municipal Council passed a Resolution on 17th December, 2013 proposing initiation of proceedings under Sub-Section (1) of Section 37 of the Maharashtra Regional and Town Planning Act. The Petitioners have a remedy of raising objections to the proposed modification and,

therefore, no interference can be made with the Resolution dated 17th December, 2013. Even if the first Respondent – Municipal Corporation forwards the proposed modification to the State Government, by virtue of the powers conferred under Sub-Section (2) of Section 37 of the MRTP Act, the State Government may approve or may not approve or may approve the proposal with modifications. Another grievance made by the learned counsel appearing for the Petitioners is as regards the failure of the Collector to pass any order on the application dated 22nd January, 2014 made under Section 308 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 (for short “the said Act of 1965”).

3. Though this Petition cannot be entertained, a direction will have to be issued to the Collector to dispose of the application if the same is pending.

4. Hence, we pass the following order :-

ORDER

- (i) We decline to entertain the Petition challenging the Resolution dated 17th December, 2013. However, all the contentions of the Petitioners as regards the proposed modification are kept open;

- (ii) If the application made by the Petitioners on 22nd January, 2014 is pending before the District Collector, the same shall be disposed of by the District Collector within a period of six weeks from the date on which an authenticated copy of this order is produced before him;
- (iii) All contentions of the parties on the application under Section 308 of the said Act of 1965 are kept open;
- (iv) All concerned to act upon an authenticated copy of this order.

(G.S. PATEL, J)

(A.S. OKA, J)