

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (STAMP) NO. 19875 OF 2015
IN
CIVIL REVISION APPLICATION NO. 277 OF 2009

Shahin Mohammad Akbar Alekar	..Petitioner
<u>In the matter between :</u>	
Roha Municipal Council	..Applicant
vs.	
Shahin Mohammad Akbar Alekar	..Respondent

WITH
REVIEW PETITION (STAMP) NO. 19857 OF 2015
IN
CIVIL REVISION APPLICATION NO. 278 OF 2009

Rafiq Gafoor Natuskar & Ors.	..Petitioners
<u>In the matter between :</u>	
Roha Municipal Council	..Applicant
vs.	
Rafiq Gafoor Natuskar & Ors.	..Respondents

WITH
REVIEW PETITION (STAMP) NO. 19840 OF 2015
IN
CIVIL REVISION APPLICATION NO. 279 OF 2009

Smt. Noorjahna Isaq Noorji & Ors.	..Petitioners
<u>In the matter between :</u>	
Roha Municipal Council	..Applicant
vs.	
Smt. Noorjahna Isaq Noorji & Ors.	..Respondents

WITH
REVIEW PETITION (STAMP) NO. 19893 OF 2015
IN
CIVIL REVISION APPLICATION NO. 280 OF 2009

Samad Shaikh Ali Janjirkar	..Petitioner
<u>In the matter between :</u>	
Roha Municipal Council	..Applicant
vs.	
Samad Shaikh Ali Janjirkar	..Respondent

WITH
REVIEW PETITION (STAMP) NO. 19821 OF 2015
IN
CIVIL REVISION APPLICATION NO. 281 OF 2009

Narayan Chilaji More	..Petitioner
<u>In the matter between :</u>	
Roha Municipal Council	..Applicant
vs.	
Narayan Chilaji More	..Respondent

WITH
REVIEW PETITION (STAMP) NO. 19836 OF 2015
IN
CIVIL REVISION APPLICATION NO. 282 OF 2009

Prakashchandra Sohanlal Gandhi	..Petitioner
<u>In the matter between :</u>	
Roha Municipal Council	..Applicant
vs.	
Prakashchandra Sohanlal Gandhi	..Respondent

Mr. Surel Shah with Mr. Saurabh Butala i/b. Mr. Shashank C. Mangle for Petitioners.
Mr. Nitin Gangal for Roha Municipal Corporation.

CORAM : M. S. SONAK, J.
DATE : 20 AUGUST 2015

P.C. :-

1] These review petitions seek recall of the order dated 29 April 2015, by which this Court has held that the suits, in effect challenge

notices issued under Sections 52, 53 and 54 of the Maharashtra Regional and Town Planning Act, 1966 (said Act) and consequently, in view of the provisions contained in Section 149 of the said Act, the same are not maintainable. This Court, has placed reliance upon its earlier decision in the case of *Bales Sardara Paracha vs. Municipal Corporation of Greater Mumbai & Anr.*¹

2] Mr. Shah, the learned counsel for the review petitioners submits that in these cases the notices under Sections 52, 53 and 54 of the said Act were issued malafide and trans-grasses the scope and import of the statutory provisions. Accordingly, Mr. Shah contends that there is a case made out for review.

3] There is no error apparent on face of record. This Court has followed its earlier decision in case of *Bales Sardara* (supra). Besides, all that this Court has held that a Civil Suit will not be maintainable. There is nothing in the order dated 29 April 2015 which precludes or prevents the petitioners from availing recourse against the notices dated 6 December 2006 by means other than that of instituting civil suit.

4] Mr. Shah, the learned counsel for the petitioners states that as against the notices under Section 52, 53 and 54 of the said Act, an appeal lies to the State Government under Section 47 of the said Act. Mr. Shah further states that there are provisions for condonation of delay, in case the appeal is lodged beyond the

1 2005 (4) Bom. C.R. 577

prescribed period of limitation.

5] Accordingly, although there is no error apparent on the face of record and there is no case made out for review of the order dated 29 April 2015, it is clarified that the remedy of appeal or any other judicial remedy, which the petitioners may have against the notices dated 6 December 2006 is not barred.

6] Further, if the petitioners, institute appeal against the notices dated 6 December 2006, before the State Government, then in the application seeking condonation of delay, the petitioners will be entitled to contend that the period spent by them in prosecuting the suit is liable to be exempted in the computation of limitation period. In any case, the petitioners will be entitled to plead sufficient cause on the basis that they were prosecuting the suits. Of course, these are matters, which the State Government will take into consideration whilst deciding application seeking condonation of delay, in case, appeal along with application seeking exemption or condonation of delay, if indeed the petitioners within a period of two weeks from today, institute any such applications and appeals.

7] With the aforesaid observations, these review petitions are disposed of. There shall be no order as to costs.

(M. S. SONAK, J.)