

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

WRIT PETITION NO.11917 OF 2013

Smt.Saraswati P. Gawande.	...Petitioner.
vs.	
The Pimpri Chinchwad Municipal Corporation and ors.	...Respondents.

Mr. Uday P. Warunjikar for the Petitioner.
Mr. Deepak Ravindra More for Respondent No.1.

**CORAM : A.S. OKA AND
REVATI MOHITE DERE, JJ.
DATE : 20 JULY 2015**

PC:

Learned counsel appearing for the petitioner, on instructions, states that the petitioner wants to apply for regularization. He submits that necessary clarification be issued as regards the documents on which reliance was placed by the petitioner and especially the order dated 17.8.2005 under the provisions of the Maharashtra Gunthewari Developments (Regulation, Upgradation and Control) Act, 2001.

2) The submission of the learned counsel appearing for the petitioner is that the alleged order of regularization under the said Act of 2001 as well as alleged plan were annexed to the sale deed under which the petitioner acquired the land in question. He

pointed out that the petitioner had lodged a police complaint on 24.2.2015 against her predecessor-in-title and an Architect as well as Officers of the Municipal Corporation. The second submission is that the land is not covered by reservation No.344 for school and play ground under the sanctioned Development Plan.

3) There is an affidavit filed by Shri. Dangat Gulab Maruti, Executive Engineer, D Ward of the Pimpri Chinchwad Municipal Corporation. In Paragraph-3 of the affidavit, he has clearly stated that the order dated 17.8.2005 and the sanctioned plan dated 17.8.2005 under the said Act of 2001 are fabricated documents. From the affidavit in rejoinder dated 16.2.2015 filed by the petitioner, it is apparent that the petitioner has accepted the said contention raised in the affidavit of Shri. Dangat and has stated that the documents have been supplied to her by her predecessor-in-title. We have perused the copy of the sale deed dated 27.7.2007. The copies of the aforesaid order as well as sanctioned plan have been annexed to the said sale deed. Nevertheless, it is an admitted position that both the documents are not genuine documents and the same are fabricated. As regards the issue of reservation, ultimately, it is for the Municipal Corporation being a Planning Authority to decide whether the land claimed by the petitioner which is the subject matter of the aforesaid sale deed is reserved for any public purpose in the

sanctioned Development Plan.

4) The very fact that the petitioner has stated that she will apply for regularization of the structure shows that she has accepted that the structure has been unauthorizedly constructed. Only because the aforesaid documents are annexed to the sale deed that we propose not to take any further action against the petitioner.

5) Hence, we dispose of the petition by passing the following order.

a) We accept the statement made by the learned counsel for the petitioner that the petitioner will apply for regularization in terms of sub-section (3) of section 53 in prescribed format in accordance with the relevant rules;

b) If such application is made within one month from today, same shall be decided by the Pimpri Chinchwad Municipal Corporation within a period of three months from the date on which the application is filed;

c) The order passed on the application shall be communicated to the petitioner or her licensed Architect. Till the date of the communication of the said order, the petitioner as well as the Municipal Corporation shall maintain status quo as of today in respect of the structure subject matter of the impugned notice

dated 6.12.2013;

d) If the order passed on the application made by the petitioner be adverse to the petitioner, the limited protection granted as aforesaid shall continue to operate for a period of four weeks from the date of service of the communication of the order on the petitioner or on her Architect, whichever is earlier;

e) On the failure of the petitioner to apply for regularization within a period of one month from today, the protection granted by this order will come to an end and it will be open for the Municipal Corporation to proceed with the demolition of the structure;

f) The issue whether the structure is on the land reserved for any public purpose will be decided by the Municipal Corporation while considering the application made by the petitioner on merits;

g) All contentions of the parties are kept open;

h) Writ Petition is disposed of in the aforesaid terms.

(REVATI MOHITE DERE, J.)

(A.S. OKA, J.)