

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2311 OF 2015

Smt. Saraswatiben Manubhai Shah Petitioners
& Ors.

Vs.

State of Maharashtra & Ors. Respondents

Mr. Milind Sathe, Senior Counsel alongwith Ms. Sutapa Saha,
for the Petitioners.

Mr. Hiren Mehta, Advocate for respondent no.6.

Mr. R.A. Thorat, Senior Counsel alongwith Ms. K.H. Mastakar
alongwith Mr. Pandit Kasar for BMC- Respondent no.7.

Ms. Madhubala Kajale, AGP for the State.

Ms. Sonali Jadhav, Advocate for MHADA.

Coram : **Smt. R.P. SondurBaldota, J.**

Date : 19th October, 2015

P.C. :

1 After the petition has been substantially heard, Mr. Sathe, the learned Senior Counsel for the petitioners makes a statement that the petitioners do not press the petition for prayers at a(i) to a(iii) and b(i) to b(iii). The petitioners press the

petition only for the relief at prayer a(iv) and prayer b(iv). These prayers relate to challenge to the order dtd. 9th July, 2015 passed by respondent no.7, by which the petitioner's application for regularisation of the mezzanine floor in her premises is rejected. As has been pointed out by Mr. Thorat, the learned Senior Counsel for respondent no.7, since the petitioners have an efficacious alternate remedy provided to them by way of appeal under Section 47 of the Maharashtra Regional and Town Planning Act, 1966, the present petition filed under Article 226 of the Constitution of India would not be maintainable. Besides, there would also, obviously be disputed questions of facts arising as regards the existence and age of mezzanine floor, which can best be decided in the appeal proceedings. Therefore, the challenge by the petitioners to the order of the authorities on regularisation of the mezzanine floor cannot be considered in this petition. The petition is dismissed.

(Smt. R.P. SondurBaldota, J.)