

pmw

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

WRIT PETITION (L.) NO.2570 OF 2015

Mumtaz Ahmed Khan

... Petitioner

Versus

The Municipal Corporation
of Greater Bombay and Anr.

... Respondents

Mr. S.P. Srivastava, for the Petitioner.

Mrs. Geeta Jogalekar, for the Respondent - BMC.

**CORAM : A.S. OKA &
V.L. ACHLIYA, JJ.**

DATE : 2nd SEPTEMBER, 2015

PC.

. **Not on board. Taken on board.**

. Heard the learned counsel appearing for the Petitioner and the learned counsel appearing for the Respondents. The learned counsel appearing for the Petitioner states that he will apply for regularisation within a period of two weeks from today in the prescribed format through a licensed Architect. We accept the said statement. The Petitioner has been served with a notice under Sub-section (1) of Section 53 of the Maharashtra Regional and Town Planning Act, 1966. The fact that the Petitioner wants to apply for regularisation makes it clear that the Petitioner has accepted that the work of the seventh floor

is unauthorised. Under Sub-section (3) of Section 53, the Petitioner is entitled to apply for regularisation. Accordingly, we dispose of the Petition by passing the following order :-

ORDER

- (i) It will be open for the Petitioner to apply for regularisation of the offending structure in his possession which is subject matter of notice dated 4th August, 2015 within a period of two weeks from today. Application shall be made in prescribed format through a licensed Architect/ Surveyor. If such an application is made within a period of two weeks from today, the first Respondent shall decide the same in accordance with law within a period of two months from the date on which the application is made. Order passed on the application be communicated to the Petitioner or to his licensed Architect/ Surveyor;

- (ii) Till the date of communication of the order to the Petitioner or to his licensed Architect/Surveyor, whichever is earlier, the action of demolition shall not be taken on the basis of notice dated 4th August, 2015. If the order be adverse to the Petitioner, the protection will

continue to operate for a period of one month from the date on which the order is served to the Petitioner or to his licensed Architect/Surveyor, whichever is earlier. On failure of the Petitioner to apply for regularisation within a period of two weeks from today, it will be open for the Municipal Corporation to immediately take action of demolition on the basis of the impugned notice;

(iii) All contentions on merits of the application for regularisation are kept open;

(iv) The Petition is disposed of on above terms.

(VL. ACHLIYA, J)

(A.S. OKA, J)