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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.394 OF 2013

Vasanji Maya Maria ..Petitioner
V/s.

The State of Maharashtra & Ors. ..Respondents

Mr.Pradip R. Kadam for the petitioner.

Mr.V.S.Upadhayay, AGP for respondent No.1 – State.

**CORAM : A.S.OKA AND
A.K. MENON, JJ.**

DATED : 19TH JANUARY, 2015

P.C. :-

1. By this petition under Article 226 of the Constitution of India, the petitioner has challenged the notice under sub-section (1) of Section 53 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act').

2. On instructions, the learned counsel for the petitioner fairly states that the petitioner will take recourse to sub-section (3) of Section 53 of the MRTP Act by making an application under section 44 of the MRTP Act.

3. In view of this statement, we need not keep the petition pending and dispose of the petition by passing the

following order:-

- (i) It will be open for the petitioner to make an application under section 44 of the MRTP Act in respect of the structure subject matter of the impugned notice within a period of one month from today;
- (ii) If such an application is made, the concerned authority of the second respondent Municipal Corporation shall pass appropriate order thereon within a period of three months from the date on which such application is made. The order passed on the said application to be communicated to the petitioner or the Architect of the petitioner;
- (iii) Till the date of communication of the order passed on the application to the petitioner or his Architect, whichever is earlier, no further action shall be taken on the basis of the impugned notice subject to condition that even the petitioner shall maintain status quo as of today in respect of the structure subject matter of the notice;
- (iv) On the failure on the part of the petitioner to make such an application within a period of one month from today, the protection granted as above, shall not apply after the expiry of period of one month and it will be open to the respondents to take action according to law on the basis of the impugned notice;

- (v) If the order passed on such application be adverse to the petitioner, we direct that the protection granted as above shall continue to operate for a period of one month from the date on which the order is served upon the petitioner or his Architect, whichever is earlier.
- (vi) We make it clear that we have made no adjudication on the merits of the application for regularisation;
- (vii) All contentions are kept open;
- (viii) The petition is disposed of in above terms;
- (ix) All concerned to act on an authenticated copy of this order.

(A.K.MENON, J.)

(A.S.OKA, J.)