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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.649 OF 2016**

M/s. Arham Anmol Projects Pvt. Ltd. ... Petitioner

Versus

The State of Maharashtra and Ors. ... Respondents

Mr. N.V. Walawalkar, Senior Advocate i/by Mr. Manoj J. Bhatt for the Petitioner.

Mrs. M.P. Thakur, AGP for the Respondents.

**CORAM : A.S. OKA &
C.V. BHADANG, JJ.**

DATE : 16th FEBRUARY, 2016

PC.

1 Heard the learned Senior Counsel appearing for the Petitioner and the learned AGP for the Respondents. The first challenge in this Petition under Article 226 of the Constitution of India is to the notice under Section 50 of the Maharashtra Land Revenue Code, 1966 (for short “the said Code”) issued by the third Respondent to the Petitioner. The notice alleges that the Petitioner has encroached upon the lands mentioned therein which are stated to be lands vesting with the State Government. There is also a challenge to the notice dated 16th December, 2015 issued by the Tahasildar, Bhiwandi to the Petitioner by

which the Petitioner was called upon to remove the encroachment made on the government land and to demolish godowns/buildings constructed on the government land.

2 It appears that the Petitioner made an application dated 19th December, 2015 to the District Collector for regularisation by invoking Section 51 of the said Code. There is one more application made by the Petitioner on 11th August, 2015 praying for regularisation. As action initiated against the Petitioner is under Section 50 of the said Code, in view of Section 51 of the said Code, the Petitioner is entitled to apply for regularisation to the District Collector. The learned Senior Counsel appearing for the Petitioner on instructions states that the said application made by the Petitioner has not yet been decided. He tenders an undertaking of Shri Vinod Raishi Malde, the Director of the Petitioner Company who is personally present in the Court. Shri Vinod Raishi Malde through the learned Senior Counsel states that he is authorised by the Petitioner Company to file the undertaking on its behalf. Clauses 2 and 3 of the said undertaking read thus :-

“2. I say that if the Hon'ble Collector considers the said application of the Petitioner for regularization of our encroachment on the government property, in the event of dismissal of my said application; I, on behalf of Petitioner Company, undertake to this Hon'ble Court that we will demolish the buildings/ construction's made

by us on the government land by encroachment thereon, which is subject matter of impugned notices dated 15/05/2015 (Exhibit-A) and 16/12/2015 (Exhibit-B) in the present Writ Petition.

3. I say that I am duly authorized by the Petitioner Company to give the present undertaking.”

3 In view of the said undertaking, a limited relief deserves to be granted to the Petitioner. Accordingly, we dispose of the Petition by passing the following order :-

ORDER

- (i) Undertaking tendered today by Shri Vinod Raishi Malde is accepted as the undertaking of the Petitioner;
- (ii) We direct the District Collector to decide the application for regularisation made by the Petitioner on 19th December, 2015 as expeditiously as possible and in any event on or before 30th April, 2016. Order passed on the application be communicated to the Petitioner. Till the date of communication of the order to the Petitioner, action under Section 50 of the said Code on the basis of the impugned notice shall not be taken;
- (iii) If the application for regularisation is rejected, in view of the undertaking of the Petitioner, we grant time of two months to the Petitioner to remove the

buildings/structures made on the government land from the date on which the order of rejection is communicated to the Petitioner;

- (iv) If the application made by the Petitioner is rejected, action under Section 50 of the said Code shall not be taken for a period of two months from the date of communication of the said order to the Petitioner to enable the Petitioner to implement the undertaking. Needless to state that if the Petitioner fails to implement the undertaking, apart from other remedies available to the Respondents, the State Government shall remove the encroachments by demolishing the structures on the government land without any further notice to the Petitioner;
- (v) We make it clear that all contentions on merits of the pending regularisation application are expressly kept open;
- (vi) The Petition is disposed of on above terms;
- (vii) The District Collector to act upon an authenticated copy of this order.

(C.V. BHADANG, J)

(A.S. OKA, J)