

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2426 OF 2014**

Shri Shantaram Dagadu Madhavi and ors.Petitioners
versus
The State of Maharashtra and ors. ...Respondents

Mr. Amol P. Mhatre, advocate for the petitioners.
Mrs. M. P. Thakur, AGP for the State.
Mr. Ashutosh M. Kulkarni, advocate for respondent No.2.
Mr. Abhijit Patil i/b. Mr. Ajay Subhash Patil, advocate for
respondent No.3.
Mr. Rajesh Sudhakar Datar, advocate for respondent Nos. 4 and 5.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATE : 23rd AUGUST, 2016.

P. C. :

Heard learned counsel appearing for the respective parties.

2. The petition is filed for the following reliefs:

“a) Be pleased to issue necessary directions against the Respondent no.2 CIDCO, to take legal action against the respondent no.4 and 5 for illegal and unauthorized construction carried out over the suit property and removing and demolishing the said unauthorized construction carried out by the respondent no.4 and 5 over the suit property.

b) Be pleased to declare that the respondent no.4 and 5 have no right, title and interest over the suit property and also the respondent no.4 and 5 have no right to carry out any construction over the suit property.

c) Be pleased to issue necessary injunction against the respondent no.4 and 5 and their employee/servant/representative/ agent/contractor or any person claiming under them from doing any further illegal construction over the suit property."

3. When the petition was placed for admission on 18th July, 2016, Mr. Kulkarni, learned counsel appearing for CIDCO, on instructions, made a statement that respondent Nos. 4 and 5 have filed representations for regularization before CIDCO under Section 53(3) of the Maharashtra Regional and Town Planning Act, 1966 and under the relevant Government Resolution of the Government of Maharashtra. He also made a statement that the competent authority of CIDCO will decide these representations within a period of three weeks from the date of the order. In pursuance of the said statements, the representations of respondent Nos. 4 and 5 were considered by the competent authority of CIDCO and after hearing them, the said representations were rejected by an order dated 11th August, 2016.

4. Since the representations of respondent Nos. 4 and 5 for regularization of the offending structure is dismissed by CIDCO, the offending structure will have to be demolished.

5. Mr. Datar, learned counsel for respondent Nos. 4 and 5 stated that respondent Nos.4 and 5 are intending to file appeal against the order of CIDCO rejecting their representations. He submitted that some protection may be granted to respondent Nos.4 and 5. In the light of this submission, we direct CIDCO to stay the demolition of the offending structure for a period of two weeks from today. In the event, respondent Nos. 4 and 5 does not obtain stay order from the appellate authority, the CIDCO shall demolish the offending structure within a period of four weeks thereafter. The writ petition is, accordingly, disposed of.

(ANUJA PRABHUDESSAI, J.)

[RANJIT MORE, J.]