

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5215 OF 2013

Gajanan Developers & Anr. .. Petitioners

V/s.

The District Collector, Pune & Ors. .. Respondents

**WITH
WRIT PETITION NO.6855 OF 2012**

Gajanan Developers & Anr. .. Petitioners

V/s.

The State of Maharashtra & Ors. .. Respondents

**WITH
WRIT PETITION NO.4296 OF 2013**

Vasant Dnyaneshwar Zagade .. Petitioner

V/s.

Gajanan Developers & Anr. .. Respondents

**WITH
WRIT PETITION NO. 11555 OF 2014**

Gajanan Developers & Anr. .. Petitioners

V/s.

The District Collector, Pune & Ors. .. Respondents

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Mr. Tejas D. Deshmukh, Advocate for the Petitioner in all Petitions.
Mr. Ravindra Paohundkar, Advocate for the Applicant in CA 3217 of 2015.
Mr. V. P. Malvankar, AGP "A" Panel, for Respondent Nos.1 to 4.
Mr. Rajaram B. Deshmukh, Advocate for Respondent Nos. 4 and 5 in W.P. 5215 of 2013.
Mr. Manoj Manohar Badgujar, Advocate for Respondent Nos.10, 11, 12, 18, 20, 24, 25, 28 and 33 to 36.
Mr. Rajshekhar A. Gaikwad, Advocate for the Petitioner in W.P.4296 of 2013.
Mr. V. P. Malvankar, AGP "A" Panel for Respondent Nos.4 to 7 in W.P. 4296 of 2013.

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

DATED : JANUARY 27, 2016.

P.C.

The question is whether the illegal construction of three additional floors admittedly made without permission on three buildings should be regularized. The submissions were heard on the last date. Today we have heard the learned counsel representing the parties. Writ Petition No.5215 of 2013 takes an exception to the notice dated 30th March, 2009 (Exhibit G to the Petition). The said notice has been issued by the Sub-Divisional Officer, Pune, in his capacity as the Planning Authority under the Maharashtra Regional and Town Planning Act, 1966 ("the MRTP Act", for short). It is stated in the said notice that though the

petitioners in Writ Petition Nos.5215 of 2013, 6855 of 2012 and 11555 of 2014 (M/s. Gajanan Developers and others) were permitted to construct three buildings consisting of ground plus four floors on the land bearing survey no.36/2B/29 at village Mundhwa, Taluka - Pune City, District - Pune, the petitioners have constructed seven upper floors in each building. It is stated that two row houses were illegally constructed. Therefore, the M/s. Gajanan Developers were called upon to remove the illegal construction.

2 Writ Petition No.6855 of 2012 has been filed for challenging the notice dated 4th May, 2012 issued by the Gram Panchayat Keshavnagar based on the order dated 9th April, 2012 allegedly passed by the Hon'ble Minister of Rural Development. The said notice is issued in exercise of the powers conferred under Sub-section 5(B) of Section 52 of the Maharashtra Village Panchayat Act, 1958 ("the said Act of 1958", for short). The said notice calls upon the petitioners to demolish the said three additional floors on three buildings in terms of the notice dated 30th March, 2009 which is the subject matter of challenge in writ petition no.5215 of 2013. Writ Petition No.4296 of 2013 filed by Vasan Zagade and others seeks a direction against the Hon'ble

Minister of State of the Urban Development Department to decide the Appeal dated 17th April, 2012 preferred by the petitioners (M/s. Gajanan Developers) in Writ Petition nos.5215 of 2013, 6855 of 2012 and 11555 of 2014.

3 Before we go to the challenge in Writ Petition No.11555 of 2014, it will be necessary to make a reference to orders passed in Writ Petition No.5215 and 4296 of 2013 and in particular, the order dated 20th December, 2013. Paragraphs 2 and 3 of the said order read thus:

“2. The Petitioners are claiming under the development agreements dated 30th April, 2004 and 25th January, 2008. The petitioners have developed the property in question by constructing three buildings “A-1”, “B-1” and “B-2” consisting of ground plus seven floors.

3 It is not in dispute that the construction of floors above the third floor was not permitted as per the permission granted under Section 44 of the Maharashtra Land Revenue Code, 1966 (for short “the said Code”).

Paragraph 5 of the said order refers to affidavit filed by Shri Kalidas Laxman Shinde, a partner of M/s. Gajanan

Developers (Petitioners in Writ Petition No. 5215 of 2013). Paragraph 5 records that the petitioners in the said writ petition have accepted that they have carried out construction of 5th, 6th and 7th floors on the said three buildings which was not permitted. Paragraph 5 of the said order reads thus:

5 The learned counsel appearing for the Petitioners on instructions of the Petitioners accept that the Petitioners have carried out construction of 5th, 6th and 7th floors on the three buildings which was not permitted. There is an affidavit affirmed today by Shri Kalidas Laxman Shinde, a partner of the Petitioners. Paragraphs 1 to 4 of the said affidavit read thus:-

"1. I say that there are in all 3 buildings i.e. A1, B1 and B2 consisting of stilt plus 7 upper floors. I seek to emphasize here that building A1 is partly constructed. Presently, there are in all 54 constructed flats on the 5th, 6th and 7th floors of all the three buildings i.e. A1, B1 and B2. Out of the said total 54 flats, 30 flats are occupied by the respective flat purchasers (20 flats) and prospective flat purchasers (10 flats). I say that as on date remaining 24 flats are still lying vacant. I undertake to this Hon'ble Court that till the final decision of

present Writ Petition, I shall not create any third party rights in vacant 24 flats nor will I part with possession of some. The details of flats occupied by flat purchasers and flats vacant are mentioned in the chart annexed along with the present Writ Petition.

2. I say that in respect of the said 30 flats occupied by the respective flat purchasers and prospective flat purchasers, I have in all received sum of Rs. 3,26,34,542/-. I seek to emphasize here that I have not received entire agreement value from the flat occupiers and some amount is still outstanding. Out of total amount of Rs. 3,26,34,542/-, amount of Rs. 49,40,600/- is collected towards MSEB charges, club house membership charges, one time maintenance, parking etc. Therefore, the actual aggregate cost of all the occupied flats comes to Rs. 2,76,93,942/- i. e. after deducting sum of Rs. 49,40,600/- from Rs. 3,26,34,542/-.

3. I say that for instance in respect of Flat no. 503 situated in B2 building:

Sr. Nos	Particulars	Amount (Rs.)
1	Cost of flat	12,94,300
2	MSEB charges	60000
3	Club house membership	25000
4	One time maintenance	50000
5	Parking	1,25,000
6	Legal expenses	25000
7	Total (items 1 to 6) Agreement value	15,79,300

Hereto annexed and marked as 'Exhibit A' is the copy of agreement in respect to Flat no. 503 in B2 building.

4. I say that the amount collected by me from the flat occupiers apart from actual flat cost, as mentioned in the agreement and also in the earlier paragraph, has been utilised by me for the purpose for which the same was collected. Moreover, I have to look after maintenance of all the 3 buildings as present no society is formed by the flat purchasers. I have calculated 9% interest on the actual flat value from the date of handing over of possession to the respective flat occupier. Therefore, the total amount to be deposited after adding amount of interest comes to Rs. 3,39,18,946/-".

Paragraphs 6 and 7 of the said order record the fact that the State of Maharashtra contended before this Court that there are total 54 flats on the unauthorizedly constructed floors. It is accepted by Shri Kalidas Laxman Shinde in his affidavit that 30 flats out of 54 were unlawfully allotted by the petitioners and were occupied by the said flat purchasers. On the basis of the calculations set out in the said affidavit, out of the total amount of Rs.3,26,34,542/- collected by the petitioners Gajanan Developers from the purchase of the said 30 flats, they offered to deposit a sum of Rs.2,76,93,942/- after deducting a sum of Rs.49,40,600/- which was collected from the flat purchasers towards MSEB charges, club house membership charges and one time maintenance. After taking into consideration the interest on the amount received by the petitioners (M/s. Gajajann Developers) from the flat purchases, they offered to deposit a total amount of Rs.3,39,18,946/- in this Court by six installments. This amount was inclusive of interest at the rate of 9% per annum. Accordingly, after the time was extended, the entire amount of Rs.3,39,18,946/- has been deposited by the petitioners which has been invested by this Court. Paragraphs 12 to 14 of the said order dated 20th December, 2013 read thus:

“12 In the facts of the case, the Petitioners have not applied for permission under Section 18 of the said Act of 1966. The Petitioners have committed a gross breach of the permission granted under the said Code for nonagricultural use by constructing additional floors and structures as aforesaid. The Petitioners applied for regularization of the said breach and as stated earlier, the order of the Collector dated 31st March 2012 rejects the said prayer. However, an appeal against the said order has not been entertained on merits on the ground that the same is not maintainable.

13 Now the Petitioners have agreed to deposit a substantial amount as stated above. In the event the Petitioners fail to obtain an order of regularization of the 5th, 6th and 7th floors, the amount deposited by the Petitioners can be utilized for making payment to the flat purchasers who have occupied flats in the illegal portion of the buildings.

14 Perhaps, even the Petitioners were misled due to fact that the notice was purportedly issued by the Collector even under Sections 53 and 54 of the said Act of 1966. Therefore, by setting aside the order dated 31st March 2012, we propose to grant liberty to the Petitioners to make an Application for grant of permission under Section 18 of the said Act of 1966 as well as for regularization of unauthorised

nonagricultural use. We propose to direct the concerned Authority to process the Application, but not to pass final order till the amount as stated in the additional affidavit tendered today is deposited."

Paragraph 15 of the said order records the submission of the learned counsel appearing for 5th and 6th respondents in Writ Petition No.5215 of 2013 that the unauthorized construction of the three floors cannot be regularized as the construction has been made on the compulsory open spaces. Under Clause (e) of paragraph 16 of the said order, a liberty was granted to M/s. Gajanan Developers to apply under Section 18 of the MRTP Act to the Collector for grant of permission and/or regularization of the buildings constructed. Paragraph 16 of the said order reads thus:

"16. Hence, we pass the following order :

:: ORDER ::

(a) The order dated 31st March 2012 (Exhibit-Q to the *Petition*) *passed by the Collector is quashed and set aside;*

(b) *We accept the statements made in the affidavit*

dated 20th December 2013 of Shri Kalidas Laxman Shinde as the statements of the Petitioners;

(c) The affidavit is marked as "X" for identification. The statements in the affidavit are accepted as undertakings of the Petitioners;

(d) In view of the statements and undertakings in the said affidavit, the Petitioners shall deposit in this Court a total amount of Rs.3,39,18,946/- by six monthly installments in following manner:

(i) The first installment :- on or before 6th January 2014;

(ii) The second installment :- on or before 6th February 2014;

(iii) The third installment :- on or before 6th March 2014;

(iv) The fourth installment :- on or before 6th April 2014;

(v) The fifth installment :- on or before 6th May 2014;

(vi) The sixth installment :- on or before 6th June 2014;

(e) It will be open for the Petitioners to make an Application under Section 18 of the Maharashtra Regional and Town Planning Act, 1966 to the Collector for grant of permission and/or regularization of the buildings already erected. It will be also open for the Petitioners to make an Application for regularization of unauthorised non-agricultural use. Such Applications shall be made within a period of one month from today. We, however, make it clear that unless the first installment payable on or before 6th January 2014 is deposited, the said Applications shall not be entertained by the Collector;

(f) If such Applications are made within one month from today and if deposit of the first installment is made in this Court on or before 6th January 2014, the Collector shall process the said Applications in accordance with law. However, final order shall not be passed thereon unless the entire amount of Rs.3,39,18,946/- is deposited by the Petitioners in this Court;

(g) We direct that the action of demolition shall not be carried out in relation to the unauthorized part of the buildings till disposal of the Applications for regularization;

(h) The orders passed on the said Application shall be communicated to the Petitioners;

(i) If the orders be adverse to the Petitioners, the same shall not be implemented for a period of four weeks from the date of receipt of the orders;

(j) If the Petitioners fail to apply for regularization as aforesaid within a period of one month from today, protection granted under this order shall cease to operate and the concerned Authority will be free to take action of demolition;

(k) In the event the Petitioners commit even a single default in payment of installments as aforesaid, the protection granted under this order shall cease to operate on commission of default by the Petitioners and in such a situation, it will be open for the Respondents to carry out the work of demolition;

(l) We direct the Petitioner to implead 30 flat purchasers who are occupying flats on the 5th and 6th floors as party Respondents by carry out amendment within a period of four weeks from today. After the amendment is carried out, the notice shall be issued by the office to the added parties;

(m) We restrain the Petitioners from carrying out

any further construction on the said property and/or parting with possession of any flats in the buildings constructed and/or from creating any third party rights in respect of the any of the flats in any building already constructed;

(n) The Petitions will have to keep pending till the disposal of the Applications for regularization;

(o) If ultimately the Petitioners fail to obtain permission and/or an order of regularization, the amount deposited by the Petitioners along with interest accrued thereon will have to be paid over to 30 flat purchasers who are occupying the 5, 6 and 7th floors of the building;

(p) As and when the amounts are deposited, we direct the Registrar (Judicial-I) to invest the said amounts in a fixed deposit in any nationalized bank till further orders;

(q) The Petitions shall be listed on Monday the 4th August 2014 for further hearing."

4 It appears that the petitioners M/s. Gajanan Developers made an application for regularization in terms of the liberty granted by this Court. By a communication dated 9th December, 2014 addressed by the District Collector to the

petitioners M/s.Gajanan Developers, they were informed that the application for regularization has been rejected. The challenge in writ petition no.11555 of 2014 is to the said communication dated 9th December, 2014.

5 Considering the controversy involved in the aforesaid writ petitions, now what is required to be considered on merits is Writ Petition No.11555 of 2014. If the order rejecting the application for regularization is not disturbed, the illegal construction will have to be demolished. The first submission of the learned counsel appearing for the petitioners therein is that notwithstanding the observations made in the impugned communication, it is easily possible for a fire engine or a fire tender to move along at least two sides of the three buildings. He pointed out the relevant provisions of the Development Control Regulations which are brought into force on 21st November, 2013. He pointed out that under Clause 6.5.2.3 thereof, there is a power to relax. He submitted that a direction may be issued to the Collector or his representative to visit the site and to ascertain whether fire engine can be moved by the four sides of the three buildings. He submitted that in any event, additional fire fighting provisions can be made in relation to the

said buildings. He urged that the requirement stated in the impugned communication of maintaining a margin of sufficient width arises as the height of the buildings exceeded 15 meters. He submitted that the petitioners can reduce the height of the buildings and can even acquire a portion of the adjoining plots so that there is a sufficient marginal space made available around the three buildings.

6 We have heard the intervenors. We have also heard the learned AGP. We have heard some of the flat purchasers who are parties in Writ Petition No.5215 of 2013. The contention of the flat purchasers is that an attempt may be made to save the illegal upper floors as far as possible.

7 We have carefully considered the submissions. The petitioners in three petitions out of four are M/s. Gajanan Developers who are professional builders and developers. At the outset, we must note that the notice dated 30th March, 2009 subject matter of challenge in the first writ petition, relates to two row houses, apart from illegal construction of three floors on three buildings. The submission of the petitioners M/s.Gajanan Developers is that they are not concerned with the said two row

houses and, therefore, to that extent, it is not necessary to deal with the issue of illegality of the said row houses.

8 The petitioners M/s.Gajanan Developers were fully aware that under the permission granted to them, they were entitled to construct buildings A-1, B-1 and B-2 consisting of ground plus four upper floors. Permission to construct the three additional floors was admittedly not granted. We must note here that the said petitioners applied for regularization by the application dated 28th April, 2010, which was rejected by the order dated 31st March, 2012, passed by the District Collector. An Appeal preferred by the petitioners against the said order was dismissed as not maintainable. Only because the said petitioners offered to deposit in this Court the amounts which they had received by way of construction cost from the flat purchasers of 30 flats on the three uppermost floors which were already occupied along with interest on the said amounts that this Court by the order dated 20th December, 2013, by way of indulgence, permitted the petitioners M/s. Gajanan Developers to apply for regularization by setting aside the order dated 31st March, 2012 passed by the District Collector. By the communication dated 9th December, 2014, which is the subject matter of challenge in Writ

Petition No.11555 of 2014, the proposal for regularization has been turned down. The said communication records that as per the Development Control Regulations and in particular Regulation No.6.1.6.21, as the height of the three buildings is more than 15 meters the same are "special buildings". Hence, marginal distance of 8.65 meters was required to be kept on all four sides of the buildings and the marginal distance of at least 6 meters was required to be maintained on all side of the building to enable the fire engine to move on all the four sides of the buildings. It records that marginal distance of even 6 meters is not maintained. It is stated that on the eastern side of the three buildings, the marginal distance is 3.24 to 4.24 meters, 4.13 to 5.68 meters and 3.45 to 4.71 meters and on the southern side of the three buildings, marginal distance is 4.39 and on the northern side, the marginal distance is maintained between 1.97 to 4.2 meters. It is recorded that at some places, the projections of the buildings are virtually abutting the boundary of the plot. Moreover, the distance between the two buildings is not maintained as per the requirements of the Development Control Regulations. Further, it is stated that there is no proper road provided to the amenity space and as the height of the buildings is more than 15 meters, fire escape staircase is not shown which is

the requirement of the said Regulations. The said communication refers to the regulation 6.5.2.3, which provides for a power to relax the condition of maintenance of marginal distances. On the basis of the communication issued by the office of the Collector, the petitioners M/s. Gajanan Developers applied on 27th October, 2014 for grant of relaxation. The Joint Director of Town Planning, Pune was of the view that the Regulation regarding marginal distance cannot be relaxed in the facts of the case. Regulation 6.5.2.3 reads thus :

“ In specific cases, where a clearly demonstrable hardship is caused, the Authority/Collector in consultation with the Divisional Head of the concerned division of the town Planning directorate, may be special written permission - permit any of the dimensions/provision prescribed by these regulations to be modified provided the relaxation sought does not violate the health safety, fire safety, structural safety and public safety of the inhabitants of the buildings and the neighbourhood. However, no relaxation from the setback required from the road boundary or F.S.I. or parking requirements shall be granted under any circumstances. While granting permission under (I) conditions may be imposed on size, cost or duration of the structure, abrogation of claim of

*compensation, payment of deposit and its forfeiture
for noncompliance."*

(Underline supplied)

9 The said Regulation thus confers power on the Collector which can be exercised in consultation with the Divisional Head of the Town Planning Directorate to permit any dimensions/provision specified by the Regulations to be modified. However, such relaxation can be granted provided it does not violate the health safety, fire safety, structural safety and public safety of the inhabitants of the buildings and neighbourhood. In the present case, the issue is of fire safety. Free movement of the fire engines is impossible at least on the two sides of the said three buildings. Some of the intervenors pointed out that in the neighbourhood, several buildings have already come up. Therefore, the power of relaxation could not have been exercised, as it would have violated the fire safety of the inhabitants of the three buildings and the buildings in the neighbourhood.

10 A submission is made across the bar that a site inspection may be ordered to ascertain whether fire engine can move on all the four sides of the building.

11 We have perused the proposal dated 16th October, 2014, submitted by the petitioners (Exhibit-Q in the Writ Petition No.11555 of 2014). The said proposal was for seeking relaxation in terms of Regulation 6.5.2.3. On 19th November, 2014, the Joint Director of Town Planning recommended that relaxation should not be granted on same grounds which are set out in the order dated 9th December, 2014 passed by the Collector. This fact was informed to the petitioners. The petitioners were aware of this fact. That is the reason why the petitioners on 4th December, 2014, submitted their comments to the District Collector on the communication dated 19th November, 2014, issued by the Joint Director of Town Planning. There is no reason to doubt the finding recorded by the Joint Director and the Collector that the free movement of the fire engines is not possible.

12 On the last date and today, a submission was made by the learned counsel appearing for M/s. Gajanan Builders that they will make an attempt to acquire portions of the adjacent properties to enable them to provide marginal distance as per the Regulations. He stated that additional fire fighting facilities can be provided. In December 2014, the petitioners were aware of the opinion submitted by the Joint Director of Town Planning.

The impugned order dated 9th December, 2014 was served to them in December 2014 itself. There is nothing placed on record to show that any attempt was made by the petitioners till today to acquire any portion of adjoining properties.

13 Firstly, the petitioner M/s. Gajanan Developers carried out illegal construction of the three floors on three buildings in a most highhanded and brazen manner though they were fully aware that they were not entitled to carry out the construction of the three additional floors as the same was not permitted under permission granted Section 44 of the said Code. Not only that, total 54 flats were constructed by constructing the three additional floors, but 30 flats out of 54 were allowed to be occupied by the flat purchasers. Though, some of the intervenors tried to contend that during the pendency of these petitions, further transfers have been made by the petitioners, for want of material, we are not considering the said allegations. In December 2014, the petitioners were aware that no relaxation can be granted from the requirements of Regulations regarding marginal distance. Therefore, it is too late in the day now to seek time on the ground that the petitioners will make an attempt to provide adequate marginal distance by acquiring portions of the adjoining properties.

14 In this case, the entire consideration amount received by the petitioners M/s. Gajanan Developers from 30 flat purchasers with interest has been deposited. Therefore, the flat purchasers would be substantially compensated even if the three additional floors are demolished. Moreover, none of the flat purchasers have come before the Court in these petitions or by way of substantive proceedings contending that they were unaware of the fact that additional three floors had no sanction.

15 In the present case, such illegal, highhanded and brazen construction by the petitioners cannot be tolerated in view of the law laid down by the Apex Court in the case of ***Dipak Kumar Mukharjee Vs. Kolkata Municipal Corporation & Ors.***¹

16 The petitioners have severely compromised on the provisions of the Regulations regarding fire safety. This will cause danger to occupants of the three buildings as well as the buildings on the adjoining properties. The construction of three additional floors is admittedly illegal which cannot be regularized by granting relaxation. The question is whether indulgence should be

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shown to the petitioners. As far as this aspect is concerned, the Court will be guided by the law laid down by the Apex Court in the case of ***Esha Ekta Cooperative Vs. Municipal Corporation of Mumbai & Ors.***² Paragraph 56 of the said decision which is relevant reads thus:

“56 In view of the above discussion, we hold that the petitioners in the transferred case have failed to make out a case for directing the respondents to regularise the construction made in violation of the sanctioned plan. Rather, the ratio of the abovenamed judgments and, in particular, Royal Paradise Hotel (P) Ltd.v. State of Haryana is clearly attracted in the present case. We would like to reiterate that no Authority administering municipal laws and other similar laws can encourage violation of the sanctioned plan. The Courts are also expected to refrain from exercising equitable jurisdiction for regularization of illegal and unauthorised constructions else it would encourage violators of the Planning laws and destroy the very idea and concept of planned development of urban as well as rural areas.”

(Underline supplied)

17 The observations made by the Apex Court are squarely applicable to this case. We are exercising equitable jurisdiction under Article 226 of the Constitution of India and, therefore, considering the gross facts, we are not inclined to exercise equitable jurisdiction.

18 Hence, the challenge to the communication/order dated 9th December, 2014, cannot be sustained at all. Once it is established that the petitioners are not entitled to the Regularization of three additional floors which are the subject matter of the notice dated 30th March, 2009 which is challenged in Writ Petition No.5215 of 2013, the challenge to the said notice must also fail. Consequently, the challenge to the notice issued by the village panchayat also fails.

19 Thus, the directions contained in order dated 20th December, 2013 in Writ Petition Nos.5215 of 2013 and 4296 of 2013 will have to be implemented and the amount deposited by the petitioners with interest accrued thereon will have to be paid over to the respective 30 flat purchasers who are occupying the flats on 5th, 6th and 7th floors of the said building.

20 By way of indulgence, we propose to direct the Registry not to release the amounts to the flat purchasers for a period of three months from today. If within the said period of three months from today, the petitioners M/s. Gajanan Developers are able to make available marginal distance of minimum 8.65 meters on all four sides of the three buildings, it will be open for them to apply for the modification of the order passed today. However, we make it clear that the period of three months cannot be extended on any ground whatsoever.

21 Hence, we pass the following order:

:: ORDER ::

- (i) Writ Petition Nos.11555 of 2014 and 5215 of 2013 are hereby rejected;
- (ii) On expiry of period of three months from today, the Registrar (Judicial - I) shall distribute Rs.3,39,18,946/-deposited by the petitioners with interest accrued thereon on pro-rata basis to the 30 flat purchasers;

- (iii) Needless to state that the flat purchasers will have to establish their identity before the Registrar (Judicial - I) to ensure that the amounts are paid to genuine persons;
- (iv) Registrar (Judicial-I) shall hear the petitioners M/s. Gajanan Developers on the identity of the flat purchasers and on the quantum of amount payable to each of the 30 purchasers before releasing the amounts;
- (v) If the M/s. Gajanan Builders petitions are able to provide marginal distance of 8.65 meters on all sides of the three buildings within a period of three months from today, they will be entitled to apply for modification of this judgment and order;
- (vi) We make it clear that time of three months will not be extended on any ground whatsoever;
- (vii) In view of what is held by the Apex Court in the aforesaid decisions, we direct the petitioners M/s. Gajanan Developers to pay costs quantified at

Rs.50,000/- (Rupees Fifty Thousand) to the State Government within a period of three months from today;

(viii) on the expiry of period of four months from today, the Collector shall demolish the additional three floors on all the three buildings by forcibly dispossessing the persons found in possession thereof, if necessary, with the police help.

(ix) Writ Petition No.4296 of 2013 does not survive and the same is disposed of;

(x) All pending applications do not survive and the same are disposed of.

(C. V. BHADANG, J.)

(A.S. OKA, J.)