

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7712 OF 2016

Haware Centurion Premises Co-
operative Society Ltd. ...Petitioner
Versus

Navi Mumbai Municipal Corporation
& Anr. ...Respondents

...

Mr. R.A. Thorat, senior Advocate i/b. Mr. Ashok Pande for
the Petitioner.

Mr. A.A. Kumbhakoni, senior Advocate i/b. Mr. S.V. Marne,
for the Respondent -Corporation.

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

DATED : 11th AUGUST, 2016.

P. C. :

Heard Mr. Thorat, the learned senior counsel for the
Petitioner and Mr. Kumbhakoni, the learned senior counsel with Mr.
Marne, the learned counsel for Respondent -Corporation.

2. Mr. Thorat, the learned senior counsel at the outset makes a
statement that he undertakes to pay the court fee, as per law on behalf
of the members of the Petitioner-Society.

3. The Petitioner is a Co-operative society. The Respondent
Corporation demolished some structures inside the shops of some of

the members of the Petitioner Society. Apprehending similar action in respect of the other members of the Petitioner Society, the present petition is filed by the Petitioner seeking various reliefs as sought for in the prayer clause of the petition.

4. The Respondent Corporation has filed affidavit in reply wherein it has contested the various contentions raised by the Petitioner on behalf of its members and has further questioned the maintainability of the petition itself

5. It is not necessary to deal with various contentions raised by the respective parties as twenty nine members out of 120 members of the Petitioner Society, in respect of whose offending structures, the Respondent Navi Mumbai Municipal Corporation has issued Notices under section 53 of the Maharashtra Regional and Town Planning Act, 1966, have filed their affidavits before this Court, wherein they have accepted and acknowledged the service and receipt of respective notices issued by the Respondent Corporation in respect of the alleged offending structure, under section 53 of the M.R.T.P. Act. These members have sought time to make necessary representations for retention of the premises under the notice.

6. In view of the affidavits filed by the aforesaid 29 members of the Petitioner-Society, they are at liberty to make representation before the Respondent-Corporation for retention of the premises under notice within a period of four weeks from today. Other similarly placed members of the Petitioner-Society are also at liberty to file similar affidavits before the Respondent -Corporation within a period of one week from the date of the order and further to make a representation within a period of four weeks from the date of the order for retention of the offending structure.

7. It is made clear that the protection of the order shall be available only to those members of the Petitioner-Society who have either filed their affidavits before this Court or would be filing such affidavits before the Respondent -Corporation within a period of one week from the date of this order.

8 In the event such representations are made by the members of the Petitioner-Society, the Respondent -Corporation shall take decision on each of such representations within a further period of four weeks from the date of receipt of such representation/application in accordance with law.

9. In the event the decision taken by the Respondent -Corporation is adverse to the interest of the members of the Petitioner-Society, the offending structure shall not be demolished for a period of two weeks from the date of communication of decision to the members of Petitioner-Society.

10. This order shall not preclude the Respondent Corporation from taking action/demolition on offending structure in respect of which the members of the Petitioner-Society have not filed affidavit or have not made representation for retention within the stipulated period. Needless to state that such action will be in accordance with law.

11. The petition stands disposed of accordingly.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)