

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.8516 OF 2016**

Sachin Sampat Shewale

...Petitioner

Versus

Navi Mumbai Municipal Corporation,  
Belapur

...Respondent

...

Ms Panthi Serai i/b. M/s. M.P. Vashi & Associates for the  
Petitioner.

Mr. S.V. Marne, APP for Respondent -Corporation.

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

**DATED : 5<sup>th</sup> AUGUST, 2016.**

**P. C. :**

The Petitioner in this petition has challenged the notice under Section 53(1) of the MRTP Act, 1966. The learned counsel for the Petitioner, states that the Petitioner may be granted liberty to make an application under section 53(3) of the MRTP Act for regularization of the offending structure, and the Respondent-Corporation be directed to decide the same on its own merits.

2. Mr. Marne, the learned counsel for the Corporation submitted that the structures cannot be regularized.

3. Section 53 of the MRTP Act, Sub-Section (3) empowers any person aggrieved of the notice under sub-section (1) of Section 53 to apply for permission under Section 44 for retention on the land of any building or works or for the continuance of any use of the land, to which the notice relates. The section further provides that the mere notice itself shall not affect the retention of the buildings or works or the continuance of such use. Thus, the Petitioner has a statutory right to make an application for regularization of the offending structure and pending the final determination of the application the Petitioner is entitled for the retention of the building /works/ continuance of such use.

4. In the light of the above, we dispose of this petition by granting liberty to the Petitioner in the above petition to make an application/representation to the respondent under sub-clause (3) of Section 53 for retention of the offending structure.

5. In the event such application /representation is filed within a period of three weeks from today, the Respondent -Corporation shall decide the same as expeditiously as possible and in any case, within a period of four weeks from the date of receipt of such application.

6. Needless to mention that the said application shall be decided after giving opportunity of hearing to the Petitioner.

7. In the event the order on the representation is adverse to the interest of the Petitioner, the same shall not be implemented for the period of two weeks from the date of communication thereof to the Petitioner.

**(ANUJA PRABHUDESSAI, J.)**

**(RANJIT MORE, J.)**