

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9136 OF 2016**

Nilesh Vijay Mhatre & Anr.

...Petitioners

Versus

Navi Mumbai Municipal Corporation
& Ors.

...Respondents

...

Mr. U.A. Thorat with Ms Prachi Tatke, Mr. S.B. Pawar and
Ms Swati Samant i/b. M/s. S.K. Legal Associates for the Petitioners.
Mr. S.V. Marne for Respondent -Corporation.

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

DATED : 5th AUGUST, 2016.

P. C. :

Not on board. Taken on board on being mentioned on the
ground of urgency.

2. Mr. Thorat, the learned senior counsel for the Petitioners at
the outset submits that he is not pressing challenge to the order dated
10th June, 2016 and restricts this petition to challenge the impugned
notices dated 2nd July, 2016 issued by Respondent Nos. 2 and 3. The
statement is accepted.

3. In pursuant to the order dated 29th January, 2016, passed by this Court in PIL No.61 of 2015 the Respondent -corporation issued notice to the Petitioners under section 53(1) of the Maharashtra Regional Town Planning Act, 1966 directing the Petitioners to remove unauthorized construction specified in the notice.

4. Mr. Thorat, the learned senior counsel submits that the Deputy Commissioner (Encroachment) Navi Mumbai Municipal Corporation earlier passed an order dated 10th June, 2016 whereby the Petitioners were granted three weeks' time to submit the revised plan as requested by the Petitioners and further directed the planning department to take appropriate decision. Mr. Thorat further submits that he could not submit the revised plan for non availability of the architect. He submits that the Petitioners should be given an opportunity to submit revised plan and the Respondents be directed to take appropriate decision.

5. Mr. Marne, the learned counsel for the Respondent -Corporation submits that sufficient time is given to the Petitioners but they did not comply with the directions in the said order. Therefore, no need to grant the Petitioners fresh opportunity.

6. Considering the nature of the alleged unauthorized construction coupled with the fact that the Petitioners were earlier granted an opportunity to file revised plan, we are of the opinion that interest of justice would be subserved if the Petitioners are allowed to file the revised plan with further directions to Respondent -Corporation to decide the same in accordance with law. The petition is accordingly disposed of by issuing following directions:-

(a) The Petitioners are at liberty to submit revised plan to the Respondent-Corporation within a period of four weeks from the date of receipt of this order.

(b) In the event the Petitioners filed such revised plan, the Respondent-corporation shall decide the same independently on its own merit and take appropriate decision as expeditiously as possible and preferably within a period of four weeks from the date of filing of such revised plan.

(c) The effect and execution of the impugned notice under section 53 (1) of the M.R.T.P. Act shall remained stayed till the Respondent -Corporation takes decision on the revised plan submitted by the Petitioners.

(d) In the event any order adverse to the Petitioners, same shall not be implemented for a period of one week from the date of such order.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)