

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9385 OF 2016

Nitin Shah ...Petitioner

Versus

Navi Mumbai Municipal Corporation,
Belapur ...Respondent

WITH

WRIT PETITION NO.9382 OF 2016

Raksha Jayendra Doshi & Anr. ...Petitioners

Versus

Navi Mumbai Municipal Corporation,
Belapur ...Respondent

WITH

WRIT PETITION NO.9383 OF 2016

Prakash R. Sawant ...Petitioner

Versus

Navi Mumbai Municipal Corporation,
Belapur ...Respondent

WITH

WRIT PETITION NO.9384 OF 2016

Pravin C. Shah ...Petitioner

Versus

Navi Mumbai Municipal Corporation,
Belapur ...Respondent

WITH

WRIT PETITION NO.9491 OF 2016

Seksaria Industries Pvt. Ltd. ...Petitioners

Versus

Navi Mumbai Municipal Corporation,
Belapur ...Respondent

**WITH
WRIT PETITION NO.9492 OF 2016**

John S. Rebello ...Petitioners

Versus

Navi Mumbai Municipal Corporation,
Belapur ...Respondent

**WITH
WRIT PETITION NO.9493 OF 2016**

Shivaji N. Thorat & Anr. ...Petitioners

Versus

Navi Mumbai Municipal Corporation,
Belapur ...Respondent

...

Ms Panthi Desai 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 : 11th AUGUST, 2016.

P. C. :

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

2. The Petitioners in these petitions have challenged the notice under Section 53(1) of the MRTP Act, 1966. The learned counsel for the Petitioners, states that the Petitioners 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.

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

4. 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 mere notice itself shall not affect the retention of the buildings or works or the continuance of such use. Thus, the Petitioners have a statutory right to make an application for regularization of the offending structure and pending the final determination of the application the Petitioners are

entitled for the retention of the building /works/ continuance of such use.

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

6. 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.

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

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

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)