

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

**WRIT PETITION NO.10172 OF 2016
WITH
WRIT PETITION NO.10170 OF 2016**

Kundan Dinesh UdaniPetitioner.
Vs.
Navi Mumbai Municipal CorporationRespondent.

**WITH
WRIT PETITION NO.10171 OF 2016**

Pramod More ...Petitioner.
Vs.
Navi Mumbai Municipal CorporationRespondent.

**WITH
WRIT PETITION NO.10180 OF 2016**

Arun M. ThakkarPetitioner
Vs.
Navi Mumbai Municipal CorporationRespondent.

**WITH
WRIT PETITION NO.10182 OF 2016**

Vaishali Arun MenkudalePetitioner.
Vs.
Navi Mumbai Municipal CorporationRespondent.

ALONG WITH

The following writ petitions which are not on board, but in view of urgency, production is granted and the matters are taken on board.

(WP/10266/2016, 10267/16 AND WP/ 10276/16)

Ms. P. Desai i/by M.P.Vashi & Associates, Advocate for the Petitioner.
Mr. R.D.Patil i/by S.V.Marne, Advocates for the Respondent.

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

DATE : 1ST SEPTEMBER, 2016.

ORDER:-

1. The petitioners in these petitions have challenged the notices under Section 53(1) of the MRTP Act, 1966. Mr. Vashi, learned Counsel for the petitioners, states that the petitioners in these petitions 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, learned Counsel for the Corporation submitted that the structures cannot be regularized. Having considered Section 53 of the MRTP Act, SubSection (3) empowers any person aggrieved of the notice under subsection (1) of Section 53 to apply for permission under

Section 44 for retention of the land of any building or works for the continuance of any use of the land to which the notice relates.

3. Thus, the petitioner has a statutory right to make an application for regularization of the offending structure. In the event such application is filed, pending the final determination of the application, the mere notice itself shall not affect the retention of the building or work.

4. 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 subclause (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 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 petitioners.

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

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)