

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10855 OF 2016**

Tejinderpal Singh Ghai and anr.
versus
Navi Mumbai Municipal Corporation

....Petitioners
...Respondent

Ms. Panthi Desai i/b. M/s. M. P. Vashi and Associates, advocates for the petitioners.
Mr. V. P. Shirke i/b. Mr. S. V. Marne, advocate for the respondent.

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

DATE : 23rd SEPTEMBER, 2016.

P. C. :

The petitioners in these petitions have challenged the notices under Section 53(1) of the Mumbai Regional and Town Planning Act, 1966 (for short “the MRTP Act”). Ms. Desai, learned counsel for the petitioners, states that the petitioners in this petition 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. Shirke, learned counsel for the Corporation submitted that the structures cannot be regularized. Having considered 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 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 petitioners have 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 this petition by granting liberty to the petitioners 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 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.]