

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1714 OF 2015

Dr. Atul P. Chirmade ... Petitioner.

V/s.

Mumbai Municipal Corporation & Anr. ... Respondents.

WITH

WRIT PETITION NO. 2530 OF 2015

Dr. Atul P. Chirmade ... Petitioner.

V/s.

Mumbai Municipal Corporation & Anr. ... Respondents.

Mr. Pradeep J. Thorat, Advocate for the Petitioner.

Mrs. Shobna Ajitkumar, Advocate for the Respondent Nos.1 & 2 - BMC.

CORAM : A.S.OKA & C.V.BHADANG,JJ.

DATE : 18th JANUARY, 2016.

P.C. :

1 Heard the learned counsel appearing for Petitioner in both the Petitions and the learned counsel appearing for the Respondents.

2 In both these petitions, the challenge is to the notices issued under section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 by the first Respondent Municipal Corporation. The Petitioner in these two petitions has applied for regularization of the offending work subject

matter of the impugned notices under sub-section (1) of Section 53 of the Act. The Applications have been made on 20th April, 2015 through a licensed Architect.

3 There is a proposal for regularization submitted by M/s. Sneha Builder in respect of 6th and 7th floors. The Sneha Builders have made an application for regularization of 6th and 7th floors of the same building on the basis of the order passed by the State Government.

4 By a separate order passed today in writ petition no. 847 of 2013, this Court has directed the Municipal Corporation to decide the said proposal within a period of three months from today.

5 Learned counsel appearing for the first Respondent states that the proposals dated 20th April, 2015 have not been filed with the appropriate authority and it ought to have filed with the Executive Engineer, (Building Proposal) City. Hence, we dispose of both these petitions by passing the following order :

ORDER

- i. It will be open for the Petitioner to make fresh Applications in the prescribed format through the licensed Architect to the Executive Engineer,

(Building Proposal)City of the First Respondent within a period of two months from today;

- ii. If such Applications are made within a period of two months from today, the same shall be decided within the period of 60 days from the date on which the Applications are filed;
- iii. Till the disposal of the Applications which will be made by the Petitioner, no further action on the basis of the impugned notices under section 53(1) of the Maharashtra Regional Town Planning Act, 1966 shall be taken by the Respondents;
- iv. Orders passed on the applications be communicated to the Petitioner and/ or his licensed Architects;
- v. The limited protection granted, as above, shall continue to operate till the date of the communication of the orders to the Petitioner or his licensed Architect, whichever is earlier. If the orders be adverse to the Petitioner, the limited protection will continue to operate for the period of two months from the date of communication of such

orders to the Petitioner and/or to the licensed Architect of the Petitioner, whichever is earlier;

vi. We make it clear that on the failure of the Petitioner to submit a fresh proposal within the period of two months from today, it will be open to the Respondent Municipal Corporation to take action on the basis of the impugned notices under section 53 (1) of the Act;

vii. All contentions on merits of the proposal for regularization are kept open.

viii. Both the petitions are disposed of in the above terms.

(C.V. BHADANG, J.)

(A.S. OKA, J.)

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