

pmw

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.1771 OF 2016**

|                                                                                        |                 |
|----------------------------------------------------------------------------------------|-----------------|
| Smt. Amruta V. Patil                                                                   | ... Petitioner  |
| Vs.                                                                                    |                 |
| The Managing Director,<br>City and Industrial Development<br>Corporation Ltd. and Ors. | ... Respondents |

Mr. Rahul Thakur for the Petitioner.

Mr. Pankaj J. Das for the Respondent Nos.1 to 4.

**CORAM : A.S. OKA &  
SMT. VIBHA KANKANWADI, JJ.**

**DATE : 17<sup>th</sup> JULY, 2017**

**P.C.**

1            Heard the learned counsel appearing for the petitioner. The challenge in this Petition under Article 226 of the Constitution of India is to the notice dated 4<sup>th</sup> December, 2015 issued by the City and Industrial Development Corporation (for short “the CIDCO”) which is the Planning Authority for the area in question. The notice records that the petitioner has started unauthorised RCC construction of ground plus five floors.

2            The learned counsel appearing for the petitioner invited our attention to the letter dated 18<sup>th</sup> December, 2015. He submitted that

this letter as well as another letter dated 20<sup>th</sup> January, 2016 constitute applications for regularisation which need to be considered in the light of the policy of regularising the illegal structures in gaathan and adjoining area.

3           We have carefully considered the submissions. As far as the description of the illegal work subject matter of the impugned notice is concerned, it is not disputed that the petitioner has carried out RCC construction of ground plus five floors. In the application for regularisation made by the petitioner on 18<sup>th</sup> December, 2015, it is stated that there was an old house and by demolishing the said house, the same has been reconstructed. In this Petition under Article 226 of the Constitution of India, it is contended that the house has been constructed for bonafide need.

4           The petitioner claims that there was an old house in existence on the site in question. It is not the case of the petitioner that house was a multi-storied house.

5           By demolishing the old house, now RCC construction of ground plus five floors has been made admittedly without obtaining a permission of the Planning Authority. So far, an application for

regularisation is not made in terms of Section 44 of the Maharashtra Regional and Town Planning Act, 1966. In any case, considering the conduct of the petitioner of constructing RCC structure consisting of ground plus five floors without obtaining permission of the Planning Authority, the petitioner cannot be allowed to invoke writ jurisdiction of this Court under Article 226 of the Constitution of India. Accordingly, the Petition is rejected.

**(SMT. VIBHA KANKANWADI, J)**

**(A.S. OKA, J)**