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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5666 OF 2017**

Ravindra Kale	... Petitioner
Vs.	
Pune Municipal Corporation	... Respondent

Mr. Niranjana A. Mogre for the Petitioner.
Mr. Abhijit P. Kulkarni for the Respondent No.1.

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

DATE : 28th JUNE, 2017

PC.

1 The learned counsel appearing for the petitioner, on instructions, states that the petitioner desires to apply for regularisation of the work subject matter of the impugned order dated 9th May, 2017. He seeks a reasonable time to enable the petitioner to apply for regularisation.

2 The very fact that the petitioner has agreed to apply for the regularization shows that the petitioner has accepted that the work subject matter of the impugned order/notice is unauthorised. Considering the peculiar facts of the case, we propose to grant reasonable time to the petitioner to apply for regularisation.

3 The learned counsel appearing for the petitioner submits that the similar extensions have been made on the upper floors and though the plan has been sanctioned only for construction of 10 flats in fact, there are 11 flats in the building. This aspect will have to be examined by the Municipal Corporation and necessary action will have to be initiated with a view to ensure that only the petitioner is not signaled out.

4 Accordingly, we dispose of the Petition by passing the following order :-

ORDER

- (i) The legality and validity of the impugned order/ notice dated 9th May, 2017 is upheld;
- (ii) It will be open for the petitioner to file an application for regularisation in respect of the work subject matter of the impugned order/notice through a licensed architect within a period of two months from today;
- (iii) The Pune Municipal Corporation shall consider the said application and take appropriate decision thereon within maximum period of 60 days from the date on which application is made by the petitioner;

- (iv) The order passed on the application be communicated to the petitioner or his licensed Architect;
- (v) Till the date of communication of the order to the petitioner or the petitioner's licensed Architect, whichever is earlier, the action of demolition shall not be taken on the basis of the impugned notice/order;
- (vi) If the order be adverse to the petitioner, the said protection will continue to apply for a period of two months from the date on which the order is communicated to the petitioner or his licensed architect, whichever is earlier;
- (vii) We make it clear that we have made no adjudication on merits of the regularisation application proposed to be made by the petitioner;
- (viii) We make it clear that on the failure of the petitioner to make an application for regularisation within a period of two months from today, the protection granted to the petitioner shall cease to apply;

- (ix) As the learned counsel appearing for the Municipal Corporation has stated that copies of the sanctioned plan are available, we direct the designated officer to visit the building in question and to ascertain whether any illegal construction is carried out in any other part of the building. If he finds that any such illegal construction has been carried out, the designated officer shall proceed in accordance with law for demolition of the illegal construction;
- (x) The Petition is disposed of on above terms;
- (xi) All concerned to act upon an authenticated copy of this order.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)