

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

CIVIL APPELLATE JURISDICTION.

WRIT PETITION (ST.) NO. 16630 OF 2017

Navjeevan Co-operative Housing Society Ltd.	... Petitioner
Vs/.	
The State of Maharashtra and Ors.	... Respondents

Mr. Vilas Tapkir for the Petitioner.
Mr. P.P. More, AGP for the Respondent No.1.
Mr. A.S. Rao for the Respondent No.2.

**CORAM : A.S.OKA &
SMT. VIBHA KANKANWADI, JJ.
DATE : 04th AUGUST, 2017**

P.C.:

. On the last date, the learned Counsel appearing for the Petitioner tendered affirmed undertakings of 47 out of total 51 members of the Petitioner Society. Today, he tendered the undertakings of three more members, which are taken on record and marked "X1(Collectively)" for identification. He states that one Smt. Shantabai, who was a member of the society has expired and the Petitioner society is not aware about the whereabouts of her legal representatives. He states that another member Mr. Sitaram Musai Kahar has filed an undertaking on the last date, but he has expired yesterday.

2 The Petitioner society by accepting the legality and the validity of the impugned notice has decided to apply for the regularization of the building subject matter of the impugned notice. Therefore, this petition need not be kept pending and we dispose the same by passing

the following order.

ORDER

i) The undertakings of the members of the Petitioners which are placed on record and marked “X (Collectively)” and “X-1(Collectively)” are hereby accepted. The undertakings recorded therein will also constitute the undertakings by the Petitioner society;

ii) It will be open for the Petitioner to make an application for the regularization of the building subject matter of the impugned notice within a period of six weeks from today. The application shall be filed through a licenced Architect to the second Respondent in accordance with the relevant Rules/Regulations;

iii) Such an application shall be decided by an appropriate Authority of the Kalyan Dombivali Municipal Corporation within a period of sixty days from the date of filing the application;

iv) The order passed on the regularization application be communicated to the Petitioner or to its licenced Architect. Till the date of communication of the order on the regularization application to the Petitioner or to the Petitioner's Architect, whichever is earlier, an action of demolition shall not be taken on the basis of the impugned notice;

v) If the order be adverse to the Petitioner, the said protection will continue to operate for a period of one month from the date on which the decision is communicated to the Petitioner or to the Petitioner's Architect, whichever is earlier;

vi) On the failure of the Petitioner to apply the regularization within a period of six weeks from today, it will be open for the Municipal Corporation to proceed with the action of demolition.

vii) All contention on merits of the Regularization Application made by the Petitioner are kept expressly open;

viii) The petition is disposed of on above terms.

(SMT. VIBHA KANKANWADI, J.)

(A.S.OKA, J.)