

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7470 OF 2017

Satish M. Kedari

... Petitioner.

Versus

Pune Municipal Corporation
and others

... Respondents.

WITH

WRIT PETITION NO.7472 OF 2017

Smt. Bakulabai B. Chandanshive

... Petitioner.

Versus

Pune Municipal Corporation
and others

... Respondents.

....

Mr. Shriram S. Kulkarni for the Petitioner in both writ petitions.
Mr. Rajdeep S. Khadapkar for Respondent Nos.1 to 3 in both WPs.
Mr. N.C. Walimbe, AGP for Respondent No.4 in both WPs.

....

***CORAM : Smt. Vasanti A Naik &
Riyaz I. Chagla, JJ.***

DATE : 1st November, 2017.

P.C. :

By these writ petitions the petitioners have challenged the notice of the corporation dated 24.11.2016 under section 478(1) of the Maharashtra Municipal Corporation Act as also the oral intimation of 28/29.06.2017 to remove the construction within 24 hours.

It is submitted on behalf of the petitioners that the petitioners had purchased a plot from the cooperative housing society and had made the construction thereon. It is stated that if the construction, as mentioned in the notice dated 24.11.2016 is illegal, the petitioner should be permitted to apply for the regularization of the same. It is submitted that the petitioners intend to file an application for regularization of the structure before the respondent-corporation as per the provisions of the Act. It is stated that the petitioner has applied for demarcation of the plot but the necessary order/report of the T.I.L.R. is not received till date as the demarcation is scheduled on 22.11.2017. It is stated that within three months an application for regularization would be made after securing the demarcation report/map. It is submitted that since the petitioners are desirous of applying for regularization, this Court may continue the interim relief till the application of the petitioners for regularization, is decided.

The learned counsel for the corporation submitted that one Jaywant Bhosale had filed the writ petition, bearing No.8753/2014 for demolition of the illegal structures against the members of the society. It is submitted that the petitioners are also the members of the society and since the corporation had found that certain construction made by the petitioners was illegal and without permission, the impugned notice was issued in pursuance of the statement made before this Court in the earlier writ petition that the corporation would take appropriate steps in accordance with law. It is stated that the impugned notice was rightly issued as the construction made by the petitioners was illegal.

On hearing of the learned counsel for the parties, it appears that an opportunity needs to be granted to the petitioners to apply for regularization of the unauthorized structure in view of the provisions of the Maharashtra Regional and Town Planning Act. Since the petitioners have sought for the demarcation of the plot in question from the office of the T.I.L.R., some time needs to be granted to the petitioners for filing the application for regularization. Till the application of the petitioners for regularization is decided, it would be necessary to restrain the corporation from taking any coercive steps in pursuance of the impugned notice.

In the circumstances of the case, we dispose of the writ petitions with liberty to the petitioners to apply for regularization on or before 31.01.2018. If an applications for regularization are so made, the respondent corporation should decide the same within three months. Since the learned counsel has submitted that the petitioners would remove the unauthorized structure if the applications for regularization are finally rejected, the statement would be binding on the petitioners. If the petitioners fail to apply for regularization on or before 31.01.2018, the corporation would be entitled to take appropriate steps in pursuance of the impugned notice. Order accordingly. No order as to costs.

(Riyaz I. Chagla J)

(Smt. Vasanti A Naik, J)