

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

WRIT PETITION NO.9056 OF 2013

Smt. Salma Khalil Meer

.. Petitioner

Vs

Uran Municipal Council & Anr.

.. Respondents

...

Mr. Kishor Patil i/b. Mr. Shriram Redij for the Petitioner.

Ms. Saily Pednekar i/b. Mr. S. B. Shetye for the Respondent No.1.

Mr. P. P. More, AGP for the Respondent No.2.

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

DATE : 25/07/2017.

P.C. :

1] The challenge in this petition under Article 226 of the Constitution of India is to the order dated 8th July 2013 passed by the Chief Officer of Uran Municipal Council holding the construction of the building of the Petitioner as illegal and directing the demolition thereof. The Petitioner has applied for regularization of the structure subject matter of the impugned notice. Admittedly, application made by the Petitioner for regularization has been rejected by the Planning Authority by a communication dated 3rd May 2014.

2] The very fact that the Petitioner applied for regularization shows that the Petitioner accepted correctness impugned order dated 8th July, 2013. Therefore, the challenge to the said order cannot be entertained. The remedy of the Petitioner is to challenge the order rejecting the application for regularization by taking recourse to Section 47 of the Maharashtra Regional and Town Planning Act, 1966.

3] Therefore, we decline to entertain this petition. The petition is rejected. However, it will be open for the Petitioner to challenge the order of rejection of regularization application by taking recourse to the statutory remedy.

4] To enable the Petitioner to adopt the statutory remedy and to seek appropriate interim relief, we direct that action of demolition shall not be taken on the basis of impugned order dated 8th July, 2013 subject to condition of the Petitioner maintaining *status quo* in all respects in respect of the subject structure for a period of three months from today.

5] We make it clear that application for interim relief which may be made by the Petitioner before the Appellate Authority shall be decided on its own merits without being influenced by grant of limited relief by this Court.

(SMT. VIBHA KANKANWADI, J.)

(A. S. OKA, J.)