

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 1708 OF 2017

Sukdeo Ghose & Anr. ... Petitioners

V/s.

State of Maharashtra & Ors. ... Respondents

WITH

WRIT PETITION (L) NO. 1709 OF 2017

Abu Sandeep Fashion Pvt. Ltd. ... Petitioner

V/s.

State of Maharashtra & Ors. ... Respondents

WITH

WRIT PETITION (L) NO. 1710 OF 2017

Inderjit Kaur Kohli ... Petitioner

V/s.

State of Maharashtra & Ors. ... Respondents

WITH

WRIT PETITION (L) NO. 1715 OF 2017

Manish Lala ... Petitioner

V/s.

State of Maharashtra & Ors. ... Respondents

WITH

WRIT PETITION (L) NO. 1716 OF 2017

Indira Krishna ... Petitioner

V/s.

State of Maharashtra & Ors.

... Respondents

WITH

WRIT PETITION (L) NO. 1717 OF 2017

Subha Technical Services

... Petitioner

V/s.

State of Maharashtra & Ors.

... Respondents

WITH

WRIT PETITION (L) NO. 1719 OF 2017

Mohd. Nadeem Shaikh

... Petitioner

V/s.

State of Maharashtra & Ors.

... Respondents

WITH

WRIT PETITION (L) NO. 1720 OF 2017

Yogindrasinh Jashvantsinh

... Petitioner

V/s.

State of Maharashtra & Ors.

... Respondents

Mr. Vishal Kanade a/w Mr. S.S. Gawde for the Petitioner in all W.Ps.
Mr. Himnashu Takke, AGP for the Respondent No.1 in WPL/1708/2017.
Mr. Kunal Bhanage, AGP for the Respondent No.1 in WPL/1709/2017.
Ms. Geeta Shastri, Addl. GP for the Respondent No.1 in WPL/1710/2017.
Mr. K.R. Trivedi, AGP for the Respondent No.1 in WPL/1715/2017.
Ms. Uma Palsule-Desai, AGP for the Respondent No.1 in WPL/1716/2017.
Mr. U.S. Upadhyay, AGP for the Respondent No.1 in WPL/1717/2017.
Mr. Sukanta Karmakar, AGP for the Respondent No.1 in WPL/1719/2017.
Mr. Hemant Haryan, AGP for the Respondent No.1 in WPL/1720/2017.

CORAM : A.S.OKA &

SMT. VIBHA KANKANWADI, JJ.

DATE : 30th JUNE, 2017

P.C.:

. Not on board. Taken on Board.

2 Heard the learned Counsel appearing for the Petitioners and the learned Counsel appearing for the Mumbai Municipal Corporation.

3 The learned Counsel appearing for the Petitioners on instructions states that the Petitioners will apply for regularization of the offending work subject matter of the impugned notices under Sub-Section 1 of Section 53 of the Maharashtra Regional and Town Planning Act, 1966 (for short “MRTP Act) within a period of six weeks from today. We accept the statement. He states that applications will be made under Section 44 of the MRTP Act read with Sub-Section 3 of Section 53 thereof.

4 The submission of the learned Counsel appearing for the Mumbai Municipal Corporation is that the offending work subject matter of impugned Notices is such that, the same cannot be regularized.

5 The Petitioners have challenged the notices issued under Sub-Section 1 of Section 53 of the MRTP Act. Therefore, the Petitioners have a right to invoke Sub-Section 3 of Section 53 by making an application for regularization in accordance with Section 44 of MRTP Act. The Petitioners want an additional time to apply for the regularization, as they want to collect the necessary documents.

6 The issue whether the offending work can be regularized, will have to be ultimately decided by the Municipal Corporation in accordance with law. Hence, we pass the following order:

ORDER

i) It will be open for the Petitioners to make an application for regularization in accordance with Section 44 of the MRTP Act through licensed Architects within a period of six weeks from today;

ii) If such applications are made, the Municipal Corporation shall decide the same within a period of 60 days from the date of filing of the respective applications;

iii) The orders passed on the applications shall be communicated to the respective Architects appointed by the Petitioners;

iv) Till the date of communication of orders passed on the respective applications to the Architects appointed by the Petitioners, no further action on the basis of impugned notices shall be taken. If the orders be adverse to the Petitioners, action shall not be taken on the basis of impugned notices for a period of one month from the date on which the orders are communicated to the Architects appointed by the Petitioners;

v) On the failure of the petitioners to make an application within a period of six months from today, it will be open for the Municipal Corporation to take an action on the basis of the impugned notices without issuing any further notice;

vi) We make it clear that we have made no adjudication on question whether the offending work subject matter of the impugned notices can be regularized;

vii) The Petitions are disposed of on the above terms.

(SMT. VIBHA KANKANWADI, J.)

(A.S.OKA, J.)