

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

WRIT PETITION NO. 2207 OF 2014

Panchal Murji Patel

... Petitioner

V/s.

Bombay Municipal Corporation & Anr.

... Respondents

**WITH
WRIT PETITION NO. 2925 OF 2014**

Mohan Jaishankar Pandya

... Petitioner

V/s.

Bombay Municipal Corporation & Anr.

... Respondents

Mr. A.A. Siddiquie i/b A.A. Siddiqui & Asso. for the Petitioners in both WPs.
Ms. Geeta Joglekar for the Respondent in both WPs.

**CORAM : A.S.OKA &
SMT. VIBHA KANKANWADI, JJ.
DATE : 30th JUNE, 2017**

P.C.:

. Heard the learned Counsel appearing for the Petitioner and the learned Counsel appearing for the Respondents.

2 The challenge in these petitions under Article 226 of the Constitution of India is to the notices issued under Section 55 of the Maharashtra Regional and Town Planning Act, 1966 (for short “MRTP Act”) and the orders dated 08th August 2014 passed on the basis of the said notices.

3 By the said notices, the Petitioner was called upon to remove unauthorized work more particularly described in the said notices. By orders dated 08th August 2014, it was held that the work was completely unauthorized.

4 There is an additional affidavit filed by the Petitioner in both the petitions in which reliance is placed on application dated 25th July, 2016 made by the Petitioner through his Architect to the Executive Engineer, Building Proposal. The Petitioner through his Architect sought the regularization of the structure subject matter of the impugned notice and the impugned orders. The learned Counsel appearing for the Mumbai Municipal Corporation pointed out that on 06th August 2016 a communication was issued by the Assistant Engineer (Building Proposal), City-1 calling upon the Petitioner's Architect to submit on-line proposals as stated therein. It is stated that till today, such on line proposal has not been submitted.

5 The very fact that the Petitioner applied for the regularization during the pendency of the Writ Petitions shows that Petitioner has accepted the correctness of the impugned notice and the impugned orders. Only by way of indulgence, we propose to give one chance to the Petitioner to make an application for regularization on-line as suggested by the Mumbai Municipal Corporation. Accordingly, we pass following order:-

ORDER

- i) Writ Petitions are rejected.
- ii) It will be open for the Petitioners to file a fresh application for regularization through the licenced Architect as suggested in the aforesaid letter issued to the Petitioners' Architect within a period of one month from today;

- iii) If such application is made, the Municipal Corporation shall decide the same within a maximum period of 60 days from the date of filing of the application;
- iv) Till the date of communication of the order passed on such applications to the Petitioner's Architect, ad-interim relief granted by this Court on 27th August 2014 will continue to operate;
- v) If the application is rejected, the ad-interim relief will continue to operate for a period of one month from the date on which adverse order is communicated to the Petitioner's Architect;
- vi) On the failure of the Petitioners to make an application for regularization within a period of one month from today, the protection granted to the Petitioner will come to an end and it will be open for the Municipal Corporation to take an action of demolition;
- vii) We make it clear that we have made no adjudication on merits of the regularization applications;
- viii) All concerned to act upon an authenticated copy of this order.

(SMT. VIBHA KANKANWADI, J.)

(A.S.OKA, J.)