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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.919 OF 2017**

Shreeji Industrial Premises Co-op. Society Ltd.	... Petitioner
Vs.	
The State of Maharashtra & Anr.	... Respondents

Mr. Sushil Upadhyay i/by A.M. Saraogi for the Petitioner.
Mr. K.R. Trivedi, AGP for the Respondent No.1.
Ms. Kejali Mastakar for the Respondent No.2.

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

DATE : 4th JULY, 2017

PC.

1 Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents. The challenge in this Petition under Article 226 of the Constitution of India is to the notice issued under Sub-Section (1) of Section 53 of the Maharashtra Regional and Town Planning Act, 1966 (for short “the MRTP Act”).

2 On the earlier date, the petitioner has tendered an undertaking on oath of one Shri Ishwarlal P. Dave, who is personally present in the Court. The undertaking is already taken on record. Today, the learned counsel appearing for the petitioner produces an extract of

resolution of the Managing Committee of the petitioner passed in the meeting held on 29th June, 2017 which is taken on record and marked 'X' for identification. The resolution records that Mr. Ishwarlal P. Dave is a member of the Managing Committee who has been authorised to file an affidavit on behalf of the Society. The learned counsel appearing for the petitioner states that Shri Dave is present in the Court who reaffirms that he is duly authorised to file an undertaking on behalf of the Society. As per the undertaking, the petitioner has agreed to apply for regularisation of all units and user thereof which is subject matter of impugned notice within a period of 16 weeks from the date of undertaking. There is also an undertaking given that if regularisation application is rejected, subject to outcome of the Appeal which may be preferred against the said order, members of the petitioner - Society shall forthwith comply with the notices issued and remove the alleged unauthorised construction. The impugned notices relates to unauthorised work/ unauthorised construction carried out in different units of the petitioner - Society.

3 The fact that the petitioner - Society has agreed to apply for regularisation clearly shows that the petitioner – Society has accepted that the work subject matter of the impugned notice is unauthorised. Considering the fact that application for regularisation relates to large

number of units, we propose to grant longer time to the petitioner to apply for regularisation.

4 Hence, we dispose of the Petition by passing the following order :-

ORDER

- (i) It will be open for the petitioner – Society to apply to the Mumbai Municipal Corporation for regularisation of the illegal work subject matter of the impugned notices and impugned order (Exhibits – B and G respectively) within a period of four months from today. Application for regularisation shall be made in the prescribed format through a licensed architect;
- (ii) The order passed on the regularisation application shall be communicated to the petitioner or to the petitioner's architect;
- (iii) Till the date of communication of the order passed on the regularisation application to the petitioner or to the petitioner' licensed architect, whichever is earlier, no further action shall be taken on the basis of the impugned notice and impugned order;
- (iv) In the event, the application for regularisation is

rejected, the aforesaid protection will continue to operate for a period of one month from the date on which communication of the order is served to the petitioner or to the licensed architect of the petitioner, whichever is earlier;

- (v) On the failure of the petitioner to apply for regularisation within a period of four months from today, it will be open for the Municipal Corporation to take further action on the basis of the impugned notices and impugned order without serving any further notice to the petitioner or to the petitioner's members;
- (vi) The undertaking of the petitioner (filed by Ishwarlal P. Dave on 3rd July, 2017) is accepted;
- (vii) We make it clear that no adjudication is made on merits of the application for regularisation which is proposed to be made by the petitioner;
- (viii) All concerned to act upon an authenticated copy of this order.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)