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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.653 OF 2016**

Shri. Shamkant Shripad Natekar and Ors. ... Petitioners
Vs.
Municipal Corporation of Greater Mumbai and Ors. ... Respondents

Mr. Pravartak Pathak for the Petitioners.
Mr. Yashpal Thakur as Amicus Curiae appointed by Court.
Ms. Vandana Mahadik for the Respondent Nos.1 and 2.
Mr. Sukanta Karmakar for the Respondent No.3.

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

DATE : 4th JULY, 2017

PC.

1 Heard the learned counsel appearing for the petitioners and the learned Amicus Curiae appointed by the Court. By this Petition under Article 226 of the Constitution of India, the petitioners have taken an exception to the order passed by the State Government under Section 47 of the Maharashtra Regional and Town Planning Act, 1966.

2 The petitioners are occupying the residential premises in a building more particularly described in the Petition. On 24th November, 2012, a notice was served upon the petitioners stating that they have

enclosed balcony/common passage and have constructed toilet/bathroom in the rear side balcony passage. It appears that an application for regularisation was made by the petitioners which was rejected by the Mumbai Municipal Corporation by order dated 14th March, 2014. By the impugned order, the Appeal preferred against the rejection of regularisation application has been dismissed.

3 The petitioners have filed separate undertakings stating therein that they will remove the offending work in respect of which regularisation application was made which was rejected by order dated 14th March, 2014. They have undertaken to remove the said work within a period of one year from the date of undertakings.

4 On perusal of the undertakings, it is clear that the petitioners have undertaken to remove the entire offending work in respect of which they had applied for regularisation. All the petitioners are senior citizens in the age group of 63-83. In the common passage, toilets/washrooms have been made by the petitioners. Considering their respective ages and undertakings filed by them, a lenient approach deserves to be taken by granting time of one year from today to remove the offending work. Accordingly, we dispose of the Petition by passing the following order :-

ORDER

- (i) Writ Petition is rejected;
- (ii) We grant time of one year from today (till 3rd July, 2018) to remove the offending work subject matter of this Petition;
- (iii) On the failure of the petitioners to do so within the stipulated time, it will be open for the Mumbai Municipal Corporation to remove the said offending work without issuing any further notice to the petitioners;
- (iv) All concerned to act upon an authenticated copy of this order.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)