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

WRIT PETITION NO. 6284 OF 2018

Shri Narayan Babu Vaze ... Petitioner
Versus
Kalyan Dombivli Municipal Corporation & Ors. ... Respondents

Mr. A.A. Garge, i/b Mr. Kashyap Bhalerao, for the Petitioner.
Mr. Abhijit B. Kadam, for the Respondent No.5.
Mr. A.S. Rao, for Respondent Nos.1 to 3.
Ms. Nisha Mehra, AGP for Respondent No.4.

**CORAM: A.S. OKA AND
RIYAZ I. CHAGLA, JJ.**
DATE: 14TH JUNE, 2018.

PC:-

1. Not on board. Taken on board.
2. The learned counsel appearing for the Petitioner in presence of the Petitioner tenders undertaking on oath affirmed by the Petitioner. It is taken on record and marked 'E1' for identification. The learned counsel for the Petitioner states that he has explained to the Petitioner the consequences of giving such undertaking. It is only in the light of the statement that the Petitioners will apply for regularisation of the subject structure and that he has given undertaking to remove the same at his own cost after rejection of the application for regularisation that we propose to grant limited protection to the Petitioner.

3. The very fact that the Petitioner has given such undertaking and has decided to apply for regularisation shows that he has accepted that the structures described in impugned order dated 7th February, 2017 are illegal.

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

i) The undertaking marked 'E1' and the statements are accepted;

ii) It will be open for the Petitioner to make an application for regularisation of the subject structures to the Respondent No.1 – Municipal Corporation within a period of one month from today. The application shall be made through an licensed Architect in a prescribed form and by the prescribed mode;

iii) If such application is made within one month from today, the Respondent No.1 shall decide the same within a period of 60 days from the date of filing of the application;

iv) The order passed on the regularisation application shall be communicated to the Petitioner's Architect. Till the date of communication of the order to the Petitioner's Architect. The action for demolition on the basis of impugned order

dated 7th February, 2017 shall not be taken;

v) If the order be adverse to the Petitioner, the action of demolition shall not be taken for a period of four weeks from the date of service of the order to the Petitioner's Architect to enable the Petitioner to comply with the undertaking;

vi) In the event of rejection of the application for regularisation, if the Petitioner fails to remove the illegal construction within the aforesaid period of four weeks, it will be open for the Respondent No.1 – Corporation to demolish the structures without further notice to the Petitioner;

vii) We make it clear that we have made no adjudication on the merits of the regularisation application proposed to be made by the Petitioner;

viii) Needless to add that on the failure of the Petitioner to apply for regularisation within a period of one month from today, it will be open for the Respondent No.1 to take an action of demolition on the basis of impugned order;

iv) The Petition is disposed of on the above terms.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)