

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2566 OF 2018

Mr.Somnath Thengal i/b Mr.Sachin Dhakephalkar for
the Petitioner
Mr.N.R.Bubna for the respondent Nos.1 and 2
Mr.F.N.Momin and Mr.Gautam J. Jain for respondent
Nos.5 and 6.

2 The learned counsel for the respondent No.6
tendered two affidavits of the respondent No.6.
The first is dated 31st March 2018 and the second one
is affirmed today. He states that the subject
building has been constructed by the said
respondent. He states that as stated in the
affidavit affirmed today, flat No.102 on the first
floor and flat Nos.502 and 506 on the fifth floor
are in possession of the respondent No.6 and the
occupants of the rest of the premises have earlier

filed their undertakings.

3 It is pointed out in the undertakings of the occupants as well as affidavits tendered of the respondent No.6 that an application for regularization of the subject building was made on 8th March 2018. The learned counsel for respondent Nos.1 to 3 states that the said application is pending.

4 The occupants in their respective affidavits have undertaken to this Court not to create third party interests in respect of the flats held by them. They have also undertaken that in the event the application for regularization is rejected, they will on their own remove illegal construction within a period of six weeks from the date on which rejection is communicated to them. Similar undertakings have been incorporated in both the affidavits which are tendered by the respondent No.6.

5 Thus, it is obvious that the occupants as well as the respondent NO.6 have accepted that the construction of the subject building is completely illegal and that is why they applied for regularization. It is obvious that if the construction of the building is not regularized, the action of demolition will be taken by the respondent Nos.1 to 3.

6 Accordingly, we need not keep the petition

pending and the same is disposed of by passing the following order:

- (I) We accept the undertakings tendered on record on 2nd April 2018 and marked 'U-1' (collectively) for identification. We accept the undertakings filed by the respondent No.6 in the affidavits marked as 'U-2' and 'U-3'. We accept the statements made therein;
- (II) In view of the undertakings, we direct the respondent No.1 to decide the application for regularization dated 8th March 2018 as expeditiously as possible and in any event within a period of 60 days from 8th March 2018;
- (III) The order passed on the application for regularization shall be communicated to the respondent No.6 as well as to those persons who have filed the undertakings which are taken on record and marked 'U-1' (collectively);
- (IV) Till the date of communication of the order as aforesaid, the action of demolition shall not be taken by the respondent No.1. If the application/applications for regularization are rejected, action of demolition shall not be taken for a period of six weeks from the date on which the order of rejection is communicated as aforesaid to enable the persons who have filed undertakings to remove themselves and to demolish the building;
- (V) On the failure of the aforesaid persons to remove themselves and demolish the building within stipulated period of six weeks, the

respondent No.1 shall proceed to demolish the building without any further notice to anyone;

(VI) It is obvious that in such circumstances, adequate police protection and aid shall be provided to the Officers of the respondent No.1;

(VII) Writ Petition is disposed of on above terms.

(RIYAZ.I.CHAGLA,J.)

(A.S.OKA,J.)