

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.907 OF 2018**

The Lodha Aria CHS Ltd.

..Petitioner.

v.

Municipal Corporation of Greater Mumbai & Ors. ..Respondents.

Mr.R.S. Mirpure i/by Mr.J.J. Carlos for the Petitioner.

Dr.Milind Sathe, Senior Advocate, alongwith Ms.Prachi Dhanani,

Mr.Shyam Gopal i/by Veritas Legal for respondent No.5.

Ms.K.H. Mastakar, for the respondent/MMC.

Mr.Hemant Haryajn, AGP for respondent No.4/State.

**CORAM : A.S. OKA &
RIYAZ I. CHAGLA, JJ.**

DATE : 25th APRIL, 2018

P.C.

1 The learned counsel appearing for 1st, 2nd and 3rd respondents on instructions of Mr.D.B. Chellore, Assistant Engineer (Building Proposal) Department, F/S Ward, states that the 5th respondent has not only applied for regularization of the structures/works subject matter of impugned notices at Exhibit AA, but the application relates to the entire building. She further states that the application is pending with the Municipal Corporation.

2 So long as the said application is pending, no action can be taken on the basis of the impugned notices at Exhibit AA as well as notices annexed to the additional affidavit of the Petitioner dated 27th March 2018.

3 The impugned notices at Exhibit AA are under the provisions of sub-section (1) of Section 53 of the Maharashtra Regional and Town Planning Act, 1966 (for short “MRTP Act”). Therefore, the persons to whom notices have been addressed are entitled to apply for regularization in terms of sub-section (3) of Section 53 of the MRTP Act. Accordingly, the application made by the 5th respondent is pending.

4 In view of the aforesaid position, the Petition need not be kept pending. We dispose of the Petition by passing the following order :

ORDER

(i) We direct 1st to 3rd respondents to take final decision on the application for regularization submitted by the 5th respondent on 11th December 2017 as expeditiously as possible and preferably within a period of 1 month from today. The decision taken on the application shall be communicated to the Architect of the 5th respondent through whom application has been made;

(ii) Till the date of communication of the decision to the Architect, no action shall be taken to implement notices at Exhibit AA and notices annexed to the additional affidavit of the Petitioner dated 27th March 2018;

(iii) If the application is rejected or is partly allowed, no action shall be taken on the basis of aforesaid notices for a period of 1 month from the date on which order passed on the regularization application is communicated to the Architect;

(iv) We have not made any adjudication on the merits of the regularization application and all contentions are kept open;

(v) Petition is disposed of on above terms.

(RIYAZ .I.CHAGLA, J)

(A.S. OKA, J)