

Jsn

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 1271 OF 2018

Parthiv Bharatbhai Gohil and Anr. ... Petitioners
Versus
The State of Maharashtra and Ors. ... Respondents

Mr. A.S. Jondhale with Ms. Yashoda A. Jondhale, i/b Jondhale and Company for the Petitioners.
Mr. Sukanta Karmakar, AGP for Respondent – State.
Ms. Shital Mane, for Respondent BMC.

**CORAM: A.S. OKA AND
RIYAZ I. CHAGLA, JJ.**
DATED: 19TH APRIL 2018.

PC:-

1. Not on board. Taken on board.
2. Heard the learned counsel appearing for the petitioners, the learned AGP for the first respondent and the learned counsel for the second and third respondents. The learned counsel for the petitioners clarifies that this Court has not directed the petitioners to file an undertaking but the Petitioners have filed undertaking on their own.
3. In the petition, the petitioners have placed reliance on section 52-A of the Maharashtra Regional and Town Planning Act, 1966 (for short 'MRTP Act') and the Rules framed thereunder. He states that the petitioners want to apply for regularization of

the subject structure under the said provisions. The petitioners' undertakings are tendered in which they have undertaken to remove unauthorized structure in the event the application for regularization is rejected.

4. In view of the undertaking and considering the facts of the case, we pass the following order:

1. It will be open for the petitioners to apply for regularization of the work / structure subject matter of the impugned order at Exhibit-D to the petition within a period of six weeks from today. The application shall be filed with the Municipal Corporation in a prescribed format and by a prescribed mode through an Architect;

2. If such application is filed within a period of six weeks from today, the same shall be decided within maximum period of 60 days from the date of filing of the said application;

3. The order passed on the application shall be communicated to the petitioners' Architect. Till the date of communication of the order passed on the application for regularization, no further steps shall be taken on the basis of the impugned order/notice at Exhibit-D to the petition;

4. If application for regularization is rejected, action shall not be taken on the basis of the notice at Exhibit-D for a period of six weeks from the date on which the order is served to the petitioners' Architect to enable the petitioners to comply with their undertaking;
5. Undertakings of the petitioners dated 16th April 2018 tendered today are accepted and marked as 'U-1' for identification;
6. If the work/structure is not removed as per the impugned order by the petitioners within a period of six weeks as aforesaid, it will be open for the Municipal Corporation to remove the same without any further notice to the petitioners;
7. All contentions on merits of the application for regularization are kept open;
8. Writ petition is disposed of on above terms.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)