

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION(L) NO.1317 OF 2018**

Purshotam Vasumal Gagwani

..Petitioner.

v.

The State of Maharashtra & Ors.

..Respondents.

Mr.Y.A. Jondhale i/by Jondhale & Co. for the Petitioner.

Ms.Shital Mane, for the respondent/MMC.

Mr.Hemant Haryan, AGP for respondent/State.

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

DATE : 25th APRIL, 2018

P.C.

1 Heard learned counsel appearing for the Petitioner, the learned AGP for respondent/State and learned counsel appearing for respondent/Mumbai Municipal Corporation.

2 The Petitioner has tendered an undertaking which is taken on record and marked as U-1 for identification. The learned counsel appearing for the Petitioner states that the Petitioner clarifies that the undertaking is not filed in terms of any order of this Court, but the Petitioner has voluntarily filed the undertaking. We accept the said statement.

3 The Petitioner has stated in the undertaking that in case his application for regularization is rejected, he will remove the unauthorised structure at his own cost. It is in the light of the

undertaking that a limited protection deserves to be granted to the Petitioner. The fact that the Petitioner has agreed to apply for regularization shows that the structures/work subject matter of the impugned notices and impugned orders is illegal. For correcting inadvertent typing mistake in the undertaking, we grant liberty to the Petitioner to make correction in the name of Judges. Accordingly, corrections have been carried out in open court.

4 We dispose of the Petition by passing following order :

ORDER

1 Undertaking of the Petitioner taken on record and marked as U-1 for identification is accepted;

2 It will be open for the Petitioner to apply for regularization of structures/work subject matter of the impugned notices/impugned orders within a period of 6 weeks from today. The application shall be made in prescribed form and by prescribed mode through an Architect;

2 The application which may be made by the Petitioner shall be decided within maximum period of 60 days from the date of filing of the application;

3 Communication of the order passed on the application be issued to the Architect employed by the Petitioner. Till the date of communication of the order to the Architect, action of demolition on the basis of impugned notices/impugned orders shall not be taken;

4 If the application for regularization is rejected, then the protection will continue to apply for a period of 6 weeks from the date of communication of the order to the Architect of the Petitioner only with a view to enable the Petitioner to comply with the undertaking;

5 On the failure of the Petitioner to apply for regularization within the stipulated period of 6 weeks from today, the Municipal

Corporation shall take action of demolition/removal without issuing any further notice to the Petitioner;

6 In the event of rejection of the application for regularization, if the Petitioner fails to remove the illegal structures/work within the aforesaid period of 6 weeks, the Municipal Corporation shall demolish/remove the structures/works without any further notice to the Petitioner;

7 The Petition is disposed of on above terms.

(RIYAZ .I.CHAGLA, J)

(A.S. OKA, J)