

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION(L) NO.1319 OF 2018**

Rajesh Prabhudas Manek & Anr.

..Petitioners.

v.

State of Maharashtra & Ors.

..Respondents.

Mr.Anant Jondhale a/w Ms.Yashoda Jondhale i/by Jondhale & Co. for the Petitioners.

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 Petitioners, the learned AGP for respondent/State and learned counsel appearing for respondent/Mumbai Municipal Corporation.

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

3 The Petitioners have stated in the undertaking that in case their application for regularization is rejected, they will remove the

unauthorised structure at their own cost. It is in the light of the undertaking that a limited protection deserves to be granted to the Petitioners. The fact that the Petitioners have 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 Petitioners 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 Petitioners taken on record and marked as U-1 for identification is accepted;

2 It will be open for the Petitioners 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 Petitioners 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 Petitioners. 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 Petitioners only with a view to enable the Petitioners to comply with the undertaking;

5 On the failure of the Petitioners 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 Petitioners;

6 In the event of rejection of the application for regularization, if the Petitioners fail 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 Petitioners;

7 The Petition is disposed of on above terms.

(RIYAZ .I.CHAGLA, J)

(A.S. OKA, J)