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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.1963 OF 2018

Pankaj Chawla	...Petitioner
vs.	
Municipal Corporation of	
Greater Mumbai & Anr.	...Respondents

Mr.Sandesh Shukla a/w Mr.R.H.Mirchandani for the
Petitioner
Ms Vandana Mahadik for the respondent-MMC.

CORAM : A.S.OKA, &
RIYAZ.I.CHAGLA, JJ.
DATE : JUNE 18, 2018

P.C.:

1 The learned counsel for the petitioner has tendered an undertaking of Shri Pankaj S. Chawla, the Sole Proprietor of M/s.Paramarsh Constructions. In the undertaking, he has stated that he will apply for regularization of the work/structure as mentioned in the impugned notice within a period of twelve weeks from today. He has stated that the petitioner will apply in accordance with section 44 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'the said Act of 1966').

2 In paragraph 2 of the undertaking, the petitioner has stated that in the event the application for regularization is rejected, he will comply with the requisitions in the impugned notice.

3 The impugned notice is issued under sub-section
1 of section 53 of the said Act of 1966 and
therefore, the petitioner is entitled to apply for
regularization in accordance with section 44 of the
said Act of 1966. The very fact that the petitioner
has agreed to apply for regularization shows that
the petitioner has accepted that the work/structure
subject matter of the notice is illegal.

4 Accordingly, we dispose of the petition by
passing the following order:

(I) The undertaking of the petitioner which is
marked 'U-1' is accepted. It will be open for the
petitioner to apply for regularization in a
prescribed format and by a prescribed mode through
an Architect within a period of twelve weeks from
today;

(II) If such application is made by the petitioner,
the same shall be decided by the first respondent-
Municipal Corporation within a period of 60 days
from the date of filing the same;

(III) The order passed on the application be
communicated to the petitioner's Architect. Till
the date of communication of the order to the
petitioner's Architect, no action shall be taken on
the basis of the impugned notice;

(IV) In the event the application is rejected, no
action shall be taken on the basis of the impugned
notice for a period of one month from the date of

communication of the order to the petitioner's Architect to enable the petitioner to comply with the undertaking given to this Court;

(V) In the event the petitioner fails to comply with the undertaking within the time mentioned in the undertaking, the first respondent shall take action on the basis of the impugned notice without any further notice to the petitioner ;

(VI) Needless to add that on the failure of the petitioner to apply for regularization within a period of twelve weeks from today, it will be open for the first respondent to take action on the basis of the impugned notice;

(VII)We make it clear that we have made no adjudication on the merits of the regularization application proposed to be made by the petitioner;

(VIII)Writ petition is disposed of on above terms.

(RIYAZ.I.CHAGLA,J.)

(A.S.OKA,J.)