

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.835 OF 2017**

Kartik Jayantilal Rawal

..Petitioner

vs.

Municipal Corporation of Greater Mumbai
& 4 Ors.

...Respondents

Mr.D. Banerjee i/b M/s. Mahesh Jani & Co for the Petitioner.

Ms. Vandana Mahadik for the Respondent-BMC.

Mr. Milind More, AGP for the Respondent-State.

CORAM : A.S. OKA & P. N. DESHMUKH, JJ.

DATE : 8th JANUARY, 2018

P.C.:

. Heard the learned counsel for the Petitioner and the learned counsel for the Respondents. The challenge in this Petition is under Article 226 of the Constitution of India to the notice under sub section (1) of section 53 of the Maharashtra Regional and Town Planning Act, 1966 (in short "MRTP Act") and the order dated 31st August 2016 made on the basis of the said notice.

2. Mr.D. Banerjee, learned counsel appearing for the Petitioner on instructions states that the Petitioner will make an application for regularization of the work the subject matter of the impugned order as well as the notice dated 8th July 2016 issued under sub section (1) of section 53 of the MRTP Act and, therefore a limited protection may be granted.

3. The fact that the Petitioner has made a statement that he wants to apply for regularization shows that the Petitioner has accepted the correctness of the notice dated 8th July 2016 and the order dated 31st August 2016. In any event, under sub section (3) of section 53 of the MRTP

Act, the Petitioner could have always applied for regularization.

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

ORDER

- i) It will be open for the Petitioner to make an application for regularization through the licensed Architect by online mode in a prescribed form within one month from today;
- ii) If such application is made within one month from today, the same shall be decided within 60 days from the date of filing the application;
- iii) The order passed on the application be communicated to the Petitioner's licensed Architect within one week from the date the order is made;
- iv) Till the date of communication of the order to the Petitioner's licensed Architect, no steps shall be taken on the basis of the impugned order dated 31st August 2016;
- v) If the application for regularization is rejected, aforesaid limited protection shall continue to operate for a period of 3 weeks from the date on which the order of rejection is served upon the Petitioner's licensed Architect;
- vi) Upon failure of the Petitioner to file an application for regularization within stipulated period of one month from today, the protection granted shall immediately cease to apply and it will be open for the Respondent Nos.1 to 4 to take action on the basis of the impugned order;
- vii) We make it clear that we had made no adjudication on the merits of the regularization application proposed to be filed by the Petitioner; and

viii) The Petition is accordingly disposed of on the above terms.

(P.N. DESHMUKH, J)

(A.S. OKA, J.)