

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2027 OF 2015

Mr. Jayram Krushnaji Patil and Anr.

...Petitioners

vs.

The Chief Officer, Islampur Municipal Council
and Anr.

...Respondents

Ms. Rati Sinhasane i/b Mr. Umesh Mankapure for the Petitioners.
Mr. Rupesh K. Bobade for Respondent No.1.

**CORAM : B. P. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.
DATE : 26/09/2019.**

PC.:

. Municipal Council has issued notice on 20/1/2014 pointing out to the petitioner that construction being raised is in violation of sanctioned plan. No marginal space has been left and at spot at some places only one meter of marginal space was found though requirement is of 3.05 meters. Additional construction not sanctioned was also found in it.

2. The petitioner relied upon circular dated 18/2/2014 to urge that in case of demonstrable hardship, regularization is permitted.

3. Learned counsel for respondent No.1 Municipal Council submits that not leaving marginal space or raising construction not sanctioned in plan in present facts cannot be seen as demonstrable hardship.

4. We have perused the sanctioned plan which shows complete

area to be 1157.08 square meters and on it the residential and commercial complex is being constructed. Considering the plot area and the nature of construction we at this stage are not in position to find any demonstrable hardship to the petitioner.

5. However, it appears that the petitioner has already submitted application under section 44 of MRTP Act for regularization. Learned counsel for respondent No.1 states that application has been rejected on 18/3/2015. The reply filed by Municipal Council, if any does not form part of court record. Learned counsel for the petitioner also does not have a copy of reply. The present petition has been filed on 17/2/2015 and is pending for last 4 years. This rejection is not brought on record by the petitioner. This Court has on 25/2/2015 taken note of desire of the petitioner to apply for regularization and accordingly notice was issued to the respondent and said notice was made returnable on 27/3/2015.

6. In this situation, without observing anything more we direct respondent No.1 to serve upon the petitioner a copy of rejection order once again. We grant liberty to the petitioner to take such other steps as are open in law. Keeping all contention of the respondent open, we dispose of the writ petition.

(SANDEEP K. SHINDE, J.)

(B. P. DHARMADHIKARI, J.)