

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**WRIT PETITION NO. 6723 OF 2015
WITH
CIVIL APPLICATION NO. 269 OF 2018
IN
WRIT PETITION NO. 6723 OF 2015**

Shri Suresh Dagadu Thakur ... Petitioner

Versus

City and Industrial Development Corporation
and Ors. ... Respondents

Mr. Sudhir Prabhu for the petitioner.

Mr. A.I.I. Patel, Addl. G.P. a/w Mr. P.G. Sawant, AGP for respondent
no. 3.

Mr. Madan Bangale i/by The Law point for R. nos. 1 and 2.

**CORAM : B.P. DHARMADHIKARI &
SANDEEP KASHINATH SHINDE, JJ.
DATE : AUGUST 19, 2019**

P.C.:

In the petition filed under apprehension that the Planning Authority may without notice remove the structure raised by the petitioner as illegal, facts pointing out service of notice under section 53 of MRTP Act, 1965 are pleaded. In Civil Application, prayer is to restrain the Planning Authority (CIDCO) from taking action on notice under section 53.

2. Learned counsel for the Planning Authority states that way

back in the year 2015, an application for regularization of the said structure was already filed. He further submits that after service of notice under section 53 on 12/1/2018, no application for regularization appears to have been filed. As such the Planning Authority can proceed further in the matter.

3. Learned counsel for the petitioner submits that after filing of the Civil Application before this court, an application for regularization under section 44 has also been filed and it is pending.

4. The mandate of provisions of section 44 is very clear. As such, when the petitioner has applied for regularization, there is no question of any steps being taken in relation to the structure which forms subject matter thereof.

5. We therefore, find that the very basis for filing of the present petition also does not survive. Hence, with the above observations and keeping all contentions of the parties open, we dispose of the petition as also the Civil Application.

(SANDEEP KASHINATH SHINDE, J.)

(B.P. DHARMADHIKARI, J.)