

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

WRIT PETITION NO.10977 OF 2015

Jaywant Appajirao Suryarao and Ors. ... Petitioners

Vs

The State of Maharashtra
Through Principal Secretary, Urban
Development Department,
Mantralaya and Ors. ... Respondents

...

Mr. Chaitanya Pendse for the Petitioners.
Mr. Nitin Gangal with Mr. Ashok Kadam for the
Respondent No.2.
Ms. K.N.Solunke, AGP for Respondent No.1.
Mr. Sahil Mahajan for respondent no.3.

**CORAM : B.P.DHARMADHIKARI &
SANDEEP K. SHINDE JJ.**

DATE : OCTOBER 7, 2019

P.C. :

*Heard learned counsel for the petitioners, the
learned AGP and the learned counsel for the respondents.*

2 *After subject plot is earmarked as garden plot,
petitioners purchased their respective portions in it.
Petitioner No.1 then submitted plan for sanction and
contention before this Court is in terms of Section 189 of*

the Maharashtra Municipalities Act, deemed sanction has followed. Petitioner No.4 purchased already built house, which enjoys water connection and has been assessed to municipal tax with the house number.

3 *It is contended that effort was made to prosecute petitioner no.1 for violation of the MRTTP Act but then the Trial Court there found deemed sanction in favour of that petitioner.*

4 *Respective counsel for the respondents states that the plots are not buildable and reserved as garden plot. Respondent no.2 Municipal Council has already been directed to remove the construction, which has come up on those plots. It is submitted that the arguments of the petitioners being bonafide purchasers without notice, are misconceived. The deemed sanction also does not apply.*

5 *The very fact that the plot of land was reserved/is reserved for garden shows that no construction can come up on it as such, no building plan could have been submitted for sanction. The provision meant for deemed*

sanction is not enacted to defeat such reservation. We find that reliance upon deemed sanction is, therefore, erroneous.

6 *The facility provided for drinking water, assessment to property tax and, therefore, giving of house number by Municipal Council does not clothe the petitioners with any legal right.*

7 *We, therefore, find no case made out.*

8 *Counsel for the petitioners submitted that since petitioners are residing there since long, some compassion should be shown and direction should be given to respondents to consider their structures for regularisation. Respondents are opposing any such direction.*

9 *As the plot is already earmarked as garden plot, this Court cannot issue any direction to the respondents.*

10 *Petition is, accordingly, dismissed with no costs.*

(SANDEEP K. SHINDE, J.) (B.P.DHARMADHIKARI, J.)