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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.1770 OF 2015**

Abuzar Saiyed Rizvi & Anr.

..Petitioners.

V/s.

Municipal Corporation of Greater  
Mumbai & Anr.

..Respondents.

Mr.Vishal Kanade i/b. Mr.J.J.Shah for the petitioners.

Ms.Vandhana Mahadik with Ms.S.Metkari for respondent No.1-MCGM.

Ms. Jennifer Rebello – respondent No.3 in person.

Mr.Rupesh Mandhare for respondent No.4.

**CORAM : S.J.KATHAWALLA AND  
B.P.COLABAWALLA, JJ.**

**DATE : DECEMBER 11, 2019**

**P.C. :-**

1. The Petitioners in the above Writ Petition have challenged the impugned notice issued by the Municipal Corporation of Greater Mumbai (MCGM) under section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 (the MRTP Act) dated 25<sup>th</sup> May, 2015 (Exhibit-D to the Writ Petition). The description of the unauthorized works is set out in the Schedule appended to the notice as under :

(i) to restore internal staircase in the bedroom at 8'6" level

which has entrance from the living room located at 1<sup>st</sup> floor level of B Wing flat 002//102 as shown in sanctioned plan;

(ii) to restore balcony which is being used as kitchen;

(iii) to restore bathroom/toilet to storeroom as shown in sanctioned plan;

(iv) to restore duct wherein unauthorized access is made from bedroom to duct area by erecting wooden glass door;”

2. The learned Advocate appearing for the Petitioners, on instructions states that the Petitioners are desirous of applying to the Municipal Corporation seeking regularization of the works set out in the Schedule to the notice. The Petitioners may do so within a period of two weeks from today. The Executive Engineer (Building Proposal) shall pass an order within a period of six weeks from the date of receipt of such Application. The Executive Engineer shall give a personal hearing to the Petitioners. He shall also take into consideration the affidavit filed by the Intervenor herein. However, it is clarified that he shall decide the Application of the Petitioners strictly on its own merits. All contentions of the parties are kept open.

3. Needless to add that this order should not be construed as a direction to the Executive Engineer (Building Proposal) either to accept or reject the regularization application.

4. In the event of the order passed by the Executive Engineer (B.P.) being adverse to the Petitioners, the Petitioners shall file an Appeal under

Section 47 of the MRTP Act within a period of two weeks from the date of receipt of the order and the Appellate Authority shall decide the Appeal within a period of four weeks thereafter. In the meantime, no coercive action shall be taken by the Corporation.

5. The Writ Petition is disposed of in above terms.

**(B.P. COLABAWALLA, J.)**

**(S.J. KATHAWALLA, J.)**