

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (Lodging) No. 269 of 2020

Jansukh Niwas Co-operative Hsg.Soc. Ltd. & Ors ..Petitioners.

Vs

Municipal Corporation of Gr. Mumbai & Ors. ..Respondents.

Mr. Karl Tamboly a/with Piyush Shah, Advocate for the Petitioners.

Mr. A. Vadgaonkar a/with Rupali Adhate and Yamuna Parekh for Respondent-
MCGM.

Mr. R.D. Soni a/with Uma Sharma and Sachin Choudhari for Respondent No.5.

Manoj Karate, Assistant Engineer (Building and Factory) R/S Ward present.

**CORAM : S.J. KATHAWALLA &
B. P. COLABAWALLA, JJ.
DATED :- 24th JANUARY, 2020.**

P.C. :-

1. The petitioners are allowed to join the State of Maharashtra as respondent No.6 in the Writ Petition. Amendments to be carried out forthwith.
2. Learned Advocates for the Respondents have submitted that the order passed by the Corporation dated 18th March, 2018 rejecting the

regularization applications filed by the Petitioners is appealable under Section 47 of the Maharashtra Regional and Town Planning Act (*MRTP Act*); since an alternate/efficacious remedy is available to the Petitioners, the above Writ Petition is not maintainable.

3. In view of the above objections raised by the Advocate for the Respondents, the Learned Advocate for the Petitioners states that the Petitioners shall within a period of one week from today, file an Appeal before the State Government under Section 47 of the MRTP Act impugning the order dated 18th March, 2018 provided the Respondents do not contend that the Appeal is barred by limitation. He also states on instructions that the Petitioners will not press prayers (c) and (d) in Suit No.103 of 2019. The Learned Advocates appearing for the Respondents states that they will not raise the issue of limitation if an Appeal is filed by the Petitioners and will also not take any coercive action until the State Government decides the Appeal. The statements are accepted.

4. In view of the above, we pass the following order :

(i) The Appeal shall be filed by the Petitioners on or before 3rd February, 2020.

(ii) The Appellate Authority shall hear the parties and dispose off the Appeal within a period of four weeks from the date of its filing.

(iii) The statement made by the Learned Advocate for the Petitioners

that the Petitioners will not press prayer clauses (c) and (d) in Suit No.103 of 2019, is accepted.

(iv) All contentions of the parties, save and except the issue of limitation are kept open.

(v) The statement made by the Advocate for the Municipal Corporation on instructions that the Corporation will not take any coercive action until the State Government decides the Appeal proposed to be filed by the Petitioners, is accepted.

(vi) The above Writ Petition is accordingly disposed off.

(B.P. COLABAWALLA, J.)

(S.J. KATHAWALLA, J.)