

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 507 OF 2019

Sou. Rajeshri Appasaheb Tambe & Anr. ... Petitioners

Versus

The State of Maharashtra & Ors. ... Respondents

ALONG WITH
CIVIL APPLICATION NO. 1808 OF 2019

IN

WRIT PETITION NO. 507 OF 2019

Mr.Anand Patil i/b. Anand Patil and Associates for the Petitioners.

Ms.Neha Bhide, B Panel Counsel for the State.

Mr.AP.Shinde for Respondent Nos. 2 and 3.

Mr.Priyal G. Sarda for the Intervenor.

CORAM : S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.

DATE : 18TH NOVEMBER, 2021

P.C. :

1. By the above Writ Petition, the Petitioners have impugned the Notice dated 24th September, 2018 issued by Respondent No. 2 under Section 53 (1) of Maharashtra Regional & Town Planning Act, 1966 (**the Act**) in respect of the subject property. It is submitted that the said notice is issued without giving an opportunity to the Petitioner as required under Section 52A of the Act.

2. Section 52A of the Act reads thus :

“52A. (1) Notwithstanding anything contained in this Act or any other law, for the time being in force, or in any judgment, order or direction of any Court where unauthorized development has been carried out on or before the 31st December, 2015, in the area of Development Plan, the State Government may, upon the request of the Planning Authority, specify the terms and conditions, not inconsistent with the rules made in this behalf, on compliance of which and the compounding charges, infrastructure charges and premium on payment of which, the Planning Authority may declare such development as compounded structure.

(2) On declaration of such development as compounded structure under sub-section (1), no further proceeding under any law for the time being in force against the owner or occupier of such structure shall be taken or continued :
Provided that, no further development shall be permissible in any compounded structure, other than repairs and maintenance, and any development or reconstruction of such structure shall be only as per the provisions of the prevailing Development Control Regulations.”

3. Admittedly, the construction has been put up after 31st December, 2015. In view thereof, Section 52A of the Act will not apply to the said construction. The Authority is therefore justified in issuing impugned notice dated 24th September, 2018 to the Petitioners. We see no reason to interfere with the impugned Notice dated 24th September, 2018 by exercising Writ jurisdiction under Articles – 226 and 227 of the

Constitution of India. In view thereof, the above Writ Petition as well as Interim Application are disposed off.

(MILIND N. JADHAV, J.)

(S.J. KATHAWALLA, J.)