

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO. 163 OF 2021****WITH****I.A. NO. 1693 OF 2021****IN****APPEAL FROM ORDER NO. 163 OF 2021**

Sanjay Pandurang Aher

.....Appellant/
Applicant.

Vs.

Municipal Corporation Of
Greater Mumbai & Ors.

.....Respondents.

WITH**APPEAL FROM ORDER NO. 164 OF 2021****WITH****I.A. NO. 1695 OF 2021****IN****APPEAL FROM ORDER NO. 164 OF 2021**Khurshid Bano Sharif
Shaoukat Ali Abdul Hamid Shaikh.....Appellant/
Applicant.

Vs.

Municipal Corporation Of
Greater Mumbai

.....Respondent.

WITH**APPEAL FROM ORDER NO. 165 OF 2021****WITH****I.A. NO. 1697 OF 2021****IN**

APPEAL FROM ORDER NO. 165 OF 2021

Shridharand K Prabhu Dessai,
Kamlakar Prabhu Desai

.....Appellant/
Applicant.

Vs.

Municipal Corporation Of
Greater Mumbai

.....Respondent.

WITH

APPEAL FROM ORDER NO. 166 OF 2021

WITH

I.A. NO. 1698 OF 2021

IN

APPEAL FROM ORDER NO. 166 OF 2021

Greta Ignatius Perera

.....Appellant/
Applicant.

Vs.

Municipal Corporation Of
Greater Mumbai

.....Respondent.

WITH

APPEAL FROM ORDER (STAMP) NO. 13896 OF 2021

WITH

I.A. (STAMP) NO. 13897 OF 2021

IN

APPEAL FROM ORDER (STAMP) NO. 13896 OF 2021

Bijal Mehta & Anr.

.....Appellants/
Applicant.

Vs.

Municipal Corporation Of
Greater Mumbai

.....Respondent.

Mr. R.A. Thorat, Senior Advocate a/w Mr. Suryajeet P. Chavan a/w Mr. Prashant Surve for the Appellants-Applicants.

Smt. Madhuri More for the Respondent-Corporation.

CORAM : A. S. GADKARI, J.

DATE : 3rd AUGUST, 2021.

P.C.:-

Appeal From Order (Stamp) No.13896 of 2021 with Interim Application (Stamp) No.13897 OF 2021 are not on Board. Mentioned. Taken on Board.

The aforesated Appeals from Order are preferred by the occupants of 'Hicon Heights' against the common Order dated 13th July, 2021 passed in Draft Notice of Motions in L.C. Suit Nos.1258 of 2021, 1256 of 2021, 1257 of 2021, 1254 of 2021 and 1255 of 2021 respectively, thereby the Trial Court has refused to grant ad-interim relief claimed by the Appellants-Plaintiffs.

The Appellants in the said L.C. Suits have impugned notices under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 (for short, "*the MRTP Act*") dated 14th February, 2020 by the Respondent No.1-Corporation and Speaking Orders passed therein dated 2nd February, 2021 and 3rd February, 2021.

2 Mr. Thorat, learned Senior counsel appearing for the Appellants, on instructions, submitted that, the Appellants admit that, the Suit structures are constructed unauthorizedly, however, in view of Section 44 rule 53(3) of the MRTP Act, the Appellants are entitled to file an

Application for regularization of the Suit structures. He submitted that, the Appellants will file Applications for regularization of said structures with the Respondent No.1-Corporation in its appropriate Department within a period of four weeks from today, if not filed earlier.

3 In view of the statement made by the learned Senior counsel for the Appellants, the Appellants are permitted to file Applications for regularization of Suit structure as contemplated under Section 44 read with Section 53(3) of the MRTP Act, within a period of four weeks from today.

Upon filing of such Applications by the Appellants, the Respondent No.1-Corporation and/or its Designated Officer of the concerned Department is directed to consider the said Applications as per the provisions of law and within a period of four weeks thereafter.

4 In case, if the Respondent No.1-Corporation rejects the request of the Appellants, the notices under Section 53(1) of the MRTP Act dated 14th February, 2020 and Speaking Orders passed thereon, on 2nd February, 2021 and 3rd February, 2021 shall not be implemented for further period of three weeks therefrom. In other words, the Respondent No.1-Corporation shall not work upon the said notices for the period of three weeks, if any, adverse Order is passed against the Appellants on their Applications for regularization.

5 In view of the above, nothing survives in the Appeals from Order Nos. 163 of 2021, 164 of 2021, 165 of 2021, 166 of 2021 and Appeal

From Order (Stamp) No.13896 of 2021, are accordingly disposed off.

In view of disposal of these Appeals from Order, the Interim Application No.1693 of 2021 in Appeal from Order No.163 of 2021, 1695 of 2021 in Appeal from Order No.164 of 2021, 1697 of 2021 in Appeal from Order No.165 of 2021, 1698 of 2021 in Appeal from Order No.166 of 2021 and Interim Application (Stamp) No.13897 of 2021 in Appeal From Order (Stamp) No.13896 of 2021 do not survive and are also disposed off.

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

Digitally signed by
SANJIV SHARNAPPA
MASHALKAR
Date: 2021.08.03
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