

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

WRIT PETITION NO.7512 OF 2021

Laxmikant Keshav Pawar and Anr. ... Petitioners
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7513 OF 2021**

Shalini Patil ... Petitioner
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7514 OF 2021**

Kiran Maruti Kolekar ... Petitioner
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7515 OF 2021**

Siddhesh P. Ghadigaokar ... Petitioner
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7516 OF 2021**

Shivkant Shivaji Yadav and Anr. ... Petitioners
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7517 OF 2021**

Vinayak S. Ghadigaokar and Anr. ... Petitioners
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7518 OF 2021**

M/s. Saisha Developers ... Petitioner
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7519 OF 2021**

Vrushali Vilas Tarphe ... Petitioner
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7520 OF 2021**

Rupesh Ramchandra Kaple and Anr. ... Petitioners
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7521 OF 2021**

Aabhaji Anandrao Chavan ... Petitioner
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7522 OF 2021**

Manjula N. Mendarkar ... Petitioner
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7523 OF 2021**

Yogesh V. Joshi and Anr. ... Petitioners
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents

**WITH
WRIT PETITION NO.7524 OF 2021**

Shohel Gani Bodale and Anr. ... Petitioners
Versus
The Commissioner of Municipal Panvel and Ors. ... Respondents.

Mr. Aron Panickar, Advocate i/by Mr. Rajeev R.Sharma Advocate for
the Petitioners in all the Petitions.
Mr. A. S. Rao, Advocate for the Corporation -Respondent Nos. 1 to 3.

CORAM : A. A. SAYED & S. G. DIGE, JJ.

DATE : NOVEMBER 15, 2021

P.C. :

1 The Petitioners in the above Petitions have challenged notices under Section 53 (1) of the Maharashtra Regional Town Planning Act, 1966 (for short "MRTP Act"). Mr. Panicker, learned Counsel for the Petitioners submits that the Petitioners may be granted liberty to make an Application under Section 53(3) of the MRTP Act for regularization of the offending structures and the Respondent Corporation be directed to decide the same on its own merits. Mr. Rao, learned Counsel for the Respondent Corporation submits that the offending structures cannot be regularized.

2 Sub-section (3) of Section 53 of the MRTP Act empowers

a person aggrieved by the notice under sub-Section (1) of Section 53 to apply for permission under Section 44 for retention of the land of any building or works for the continuance of any use of the land to which the notice relates. Thus, the Petitioners have a statutory right to make an Application for regularization of the offending structure. Learned Counsel for the Petitioners has placed reliance upon the order **dated 3rd August, 2016 passed in Writ Petition No. 9006 of 2016** (Pradeep N. Suri Vs. Navi Mumbai Municipal Corporation).

3 In the light of the above, we dispose of all the Petitions by granting liberty to the Petitioners to make an Application to the Respondent-Corporation under sub-section (3) of Section 53 of the MRTP Act for retention of the offending structures.

4 If such Applications are filed within a period of three weeks from today, the Respondent Corporation shall decide the same expeditiously and in any event, within a period of eight weeks from the date of receipt of such Applications. Pending the final determination of the Applications, the notices under Section 53(1) shall not be acted upon.

5 Needless to mention that the said Applications shall be decided after giving opportunity of hearing to the Petitioners.

6 In the event the orders on the Applications are adverse to the interest of the Petitioners, the same shall not be implemented for the period of two weeks from the date of communication thereof to the Petitioners.

7 The Petitions to stand disposed of in the above terms.

(S. G. DIGE, J.)

(A. A. SAYED J.)

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