

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1968 OF 2022**

Alka Sakharam Borhade.

...Petitioner.

V/s.

Pimpri Chinchwad Municipal
Corporation & Ors.

...Respondents.

Mr. Saurabh Mittal a/w. Mr. Rushikesh G. Bhagat i/b. Khandeparkar & Associates, for the Petitioner.

Mr. Deepak R. More a/w. Mr. Shivam Gawade, for Respondent No. 1-PCMC.

Mrs. A.A. Purav, AGP for State-added respondents.

**CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.
DATED : OCTOBER 12, 2022**

P.C. :

1. Leave to amend is granted to implead “City Survey Officer, Pimpri Chinchwad, Pune” as Respondent No.3 and “State of Maharashtra” as Respondent No. 4. Amendment to be carried out forthwith. Re-verification is dispensed with. Amendment shall also be carried out in the copy supplied to the respondents forthwith.

2. Mrs. Purav, the learned Government Pleader accepts

service on behalf of City Survey Officer, Pimpri Chinchwad, Pune and State of Maharashtra.

3. By this petition filed under Article 226 of the Constitution of India, petitioner seeks Writ of Certiorari for setting aside the notices dated 18th February, 2021 and 19th November, 2021 issued by Respondent No.3 under Section 55 of the Maharashtra Regional and Town Planning Act, 1966 (for short “MRTP Act”).

4. Learned counsel for the petitioner states that the petitioner has not applied for measurement to City Survey Officer in respect of the land in question. The same shall be applied within one week from today. The City Survey Officer(Respondent No. 3) shall carry out the measurement within two weeks from receiving the application for measurement from the Petitioner.

5. It is submitted by learned counsel for the petitioner that the petitioner shall apply for appropriate permission under Section 44 of the MRTP Act read with Rule 6 of the Maharashtra Development Plan Rules, 1970 within four weeks from the date of service of the

measurement sheet of the measurement, that would be carried out by the City Survey Officer. Statement is accepted.

6. The petitioner shall comply with all the requirements prescribed under the Maharashtra Development Plan Rules and Development Control Rules while making such application for appropriate permission under Section 44 of the MRTP Act. We direct the City Survey Officer of Pimpri-Chinchwad, Pune to take measurement of the land in question in presence of the petitioner and the respondent nos.2 and 3 on 20th October 2022 at 11:00 am. Copy of the measurement sheet shall be provided to the petitioner as well as to the respondent nos.2 and 3 by the City Survey Officer. If any further payment is required to be made for carrying out measurement, it shall be exclusively paid by the petitioner.

7. It is made clear that, if application is not made by the petitioner for permission under Section 44 of the MRTP Act within a period of four weeks from the date of service of the measurement sheet by the City Survey Officer, the interim protection granted by this Court shall stand vacated without further reference to the Court. In that event,

the authority that issued the impugned notices shall be at liberty to proceed with the notice and execute such notices against the offending structure.

8. Till such time that the measurement sheet is issued by City Survey Officer and the application for permission under Section 44 of the MRTP Act is decided by the respondent no.3, and for period of two weeks from the date of communication of the order, the respondent nos.2 and 3 shall not take any coercive steps against the petitioner and offending structure in pursuance of the notices dated 18th February, 2021 and 19th November, 2021. Respondent No.3 shall make an endeavour to dispose off the said application for regularization within eight weeks from the date of receipt of such application and shall communicate the order to the petitioners within one week from passing such order.

9. If Application under Section 44 of the MRTP Act is accepted by respondent nos.2 and 3, appropriate consequential relief shall be granted in favour of the petitioner within four weeks from the date of passing such order. If such application is rejected, the petitioner

would be at liberty to file appropriate proceedings permissible in law.

10. It is made clear that this Court has not expressed any views on the application for seeking permission under Section 44 of the MRTP Act that would be made by the petitioner. All questions on merits of said application are kept open.

11. Writ petition is disposed off in aforesaid terms. Rule is made absolute. No order as to costs.

12. Parties shall act on the authenticated copy of this order.

(KAMAL KHATA, J.)

(R.D. DHANUKA, J)