

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7514 OF 2022

Savita Dhanraj Aswani & Anr.] ... Petitioners

Vs.

Pimpri Chinchwad Municipal]
Corporation & Ors.] ... Respondents

...

Mr. Abhijit P. Kulkarni with Mr. Arvind Aswani for the petitioners.

Mr. Rohit P. Sakhadeo for respondent Nos.1 to 3-PCMC.

Mr. Ravi P. Kadam, A.G.P. for respondent No.4-State.

...

**CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.**

DATED : 11TH OCTOBER, 2022.

P.C.:-

1. Mr. Kulkarni, learned counsel for the petitioners, on instructions, states that no reliefs are sought by his clients against respondent No.5. Thus, the writ petition can be disposed off in absence of respondent No.5. Statement is accepted.

2. The petitioners have prayed for a writ of certiorari for quashing and setting aside Notice dated 04/01/2020 issued by respondent No.2-Corporation and for other reliefs.

3. We have heard learned counsel for the petitioners and the Municipal Corporation. It is common ground that the Municipal Corporation has already issued notice under Section 53 of the MRTP Act in respect of the offending structure, claimed to be in possession of the petitioners as tenants. Part of the said structure is already demolished by the Municipal Corporation after filing of the present writ petition. By order dated 24/02/2020, this Court had directed the parties to maintain *status quo*.

4. Mr. Kulkarni, learned counsel for the petitioners states that his clients would file an affidavit in reply to the notice issued by the Municipal Corporation within four weeks from today along with the relevant documents. Statement is accepted.

5. If any such affidavit in reply is filed along with the relevant documents, the same shall be considered by the designated officer of respondent No.1-Corporation. The designated officer shall inform the petitioners about the officer, who would grant them a personal hearing, three days before the date of hearing. The designated officer shall pass an order after hearing the petitioners and after considering the affidavit in reply and the relevant documents filed by the petitioners and in accordance with law, within twelve weeks from the date of filing of the affidavit in reply and the relevant documents.

6. The order that would be passed by the designated officer of respondent No.1 shall be communicated to the petitioners within one week from the date of passing of such order. Till such time the notice issued to the petitioners is disposed off, and, if the order is against the petitioners, for a further period of three weeks from the date of communication thereof, respondent Nos.1 to 3 shall not take any coercive steps towards implementation of the notice issued under Section 53 of the MRPT Act. The petitioners shall also not carry out any construction or reconstruction of the demolished portion of the offending structure or modification, alteration or repairs of the existing structure during the said period without prior permission of the Municipal Corporation.

7. It is made clear that this Court has not expressed any opinion on the merits of the notice issued by respondent Nos.1 to 3 and the contentions raised by both the parties are kept open.

8. The writ petition is disposed off in the aforesaid terms.

9. No order as to costs.

10. Parties to act on the authenticated copy of this order.

[KAMAL KHATA, J.]

[R. D. DHANUKA, J.]