

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

WRIT PETITION NO.9892 OF 2022

Yuvraj Vijay Khedekar

.. Petitioner

v/s.

The State of Maharashtra & Anr.

.. Respondents

Mr. Tanaji Mhatugade for the petitioner.

Mr. Y.D. Patil, AGP, for respondent no.1.

Mr. Rishikesh M. Pethe for the respondent no.2.

CORAM : R.D. DHANUKA &

KAMAL KHATA, JJ.

DATED : 22ND AUGUST, 2022.

P.C. :

1. By this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for writ of mandamus directing the respondent no.1 to decide the representation dated 11th May, 2021 made by respondent no.2-Municipal Corporation seeking necessary clarification / guidance in respect of UDCPR and further seeks a direction for quashing and setting aside the demolition notice dated 2nd August, 2022 issued by respondent no.2-Municipal Corporation.

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2. The petitioner admittedly carries on the business of car repairing garage in the name and style of M/s. New Shardul Motors according to the petitioner as averred in paragraph 1 of the writ petition.
3. Learned counsel for the petitioner vehemently urged that the car repairing garage run by the petitioner would fall under Regulation 16.8.1 of the Development Control and Promotion Regulations for Pune Municipal Corporation (DCPR-2017) permissible in the Green Belt. He submits that the Municipal Corporation has applied for clarification to the State Government as to the extent of FSI permissible for any construction permitted under Regulation 16.8.1, under Green Belt.
4. Learned counsel for the Pune Municipal Corporation vehemently opposed this petition on the ground that the business of car repairing garage was admittedly run by the petitioner as averred in paragraph 1 and would not fall under any of the permissible users under Regulation 16.8.1 in Green Belt of the DCPR-2017. He submits that since the said structure does not fall under any of the permissible user, under Regulation 16.8.1 whether FSI

permissible on the land in Green Belt would be 10% or more or at any other rate would not advance the case of the petitioner.

5. Learned counsel for the petitioner does not dispute that his client is carrying on the business of car repairing garage as averred in paragraph 1 of the writ petition. Learned counsel for Pune Municipal Corporation pointed out the permissible users permitted under Regulation 16.8.1 or clause 4.12 of the DCPR-2017 for Pune Municipal Corporation. Since the structure of the petitioner does not fall under any of the permissible uses under Regulation 16.8.1 (Green Belt) of DCPR-2017, the clarification sought by the Municipal Corporation from the State Government would not advance the case of the petitioner in any manner whatsoever.
6. Learned counsel for the petitioner could not point out as to how the notice issued by the Municipal Corporation on 2nd August, 2022 under Section 53(1)(a) of the MRTP Act calling upon the petitioner to demolish the structures constructed on the land situated within the Green Belt is illegal or without authority of law.

7. In our view, the writ petition is devoid of merit and is accordingly dismissed. No orders as to costs.

8. Municipal Corporation is at liberty to implement the notice issued under Section 53(1)(a) of the MRTP Act expeditiously.

(KAMAL KHATA, J.)

(R.D.DHANUKA, J.)