

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

WRIT PETITION NO.11381 OF 2022

Aditya Deepak Khandave & Anr.

.. Petitioners

v/s.

The State of Maharashtra & Ors.

.. Respondents

Mr. Rahul B. Khot for the petitioners.

Mr. A.A. Alaspurkar, AGP, for the State.

Mr. Rajdeep S. Khadapkar for the respondent-PMC.

CORAM : R.D. DHANUKA &

KAMAL KHATA, JJ.

DATED : 22ND SEPTEMBER, 2022.

P.C. :

1. Rule. Rule is made returnable forthwith.
2. Learned AGP waives service for respondent no.1. Mr. Khadapkar, learned counsel for respondent nos.2 to 4 waives service.
3. By this petition filed under Article 226 of the Constitution of India, the petitioners have prayed for a writ of certiorari for quashing and setting aside the order dated 21st August, 2022 issued by respondent nos.3 & 4 under Section 53(1) and 54 of the

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Maharashtra Regional Town Planning Act ("MRTP Act").

4. Learned counsel for the petitioners invited our attention to the said notice annexed at Exhibit 'B' to the petition and also the letter dated 8th August, 2022 annexed at Exhibit 'F' to the petition. He states that his client would file an application for retention/regularization under Section 44 of the MRTP Act with the Municipal Corporation within two weeks from today as in the prescribed form. Statement is accepted.
5. It is made clear that if the application for retention/regularization is not made under Section 44 of the MRTP Act within two weeks from today, the Municipal Corporation would be at liberty to execute the notice dated 2nd August, 2022 annexed at Exhibit 'E' to the petition within two weeks thereafter.
6. The statement made by the petitioners in the letter annexed at Exhibit 'F' page 72 that they would remove the Paan shop, is accepted. Paan Shop should be removed within one week from today.
7. The order that would be passed by respondent nos.2 to 4 shall be communicated to the petitioners within one week from the date of passing such order. During this period and for a period of two weeks from the date of communication that would be passed, if

the same is adverse, respondent nos.2 to 4 shall not take any coercive steps against the offending structure of the petitioners. The petitioners shall not carry out any construction without the prior sanction granted by the Municipal Corporation.

8. It is made clear that the respondent has not expressed any view on the merits of the application that would be made by the petitioners for retention / regularization under Section 44 of the MRTTP Act.

9. All contentions of both parties are kept open.

10. Rule is made absolute in aforesaid terms.

11. Writ petition is disposed off in the aforesaid terms.

12. No orders as to costs.

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

(KAMAL KHATA, J.)

(R.D.DHANUKA, J.)