

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

WRIT PETITION NO.12347 OF 2022

Sahebrao Bhagwan Kaspate and Ors. .. Petitioners
v/s.
Pimpri Chinchwad Municipal
Corporation and Anr. .. Respondents

Mr. Jayant Bardeskar a/w. Shradha Sawant, for the petitioners.
Mr. Rohit Sakhadeo, for respondent Nos.1 and 2 – PCMC.
Mr. R. P. Kadam, AGP – State, for newly added respondent nos.3 and 4.

**CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.
DATED : 17TH OCTOBER, 2022.**

P.C. :

1. Leave to amend is granted to implead 'City Survey Officer, Pimpri Chinchwad'. Mr. Kadam, learned counsel for the newly added party accepts service. Amendment shall be carried out forthwith. Re-verification is dispensed with. Amendment shall be carried out and a copy shall be served upon the respondents' advocate simultaneously. A copy of the writ petition shall be served upon

the learned AGP during the course of the day.

2. By this petition filed under Article 226 of the Constitution of India the petitioners seek a writ of certiorari for quashing and setting aside the impugned Notices, i.e., BP/KV/Case No. 26/98/2022 dated 29/04/2022, BP/KV/Case No. 26/97/2022 dated 29/04/2022, BP/KV/Case No. 26/159/2022 dated 29/04/2022, BP/KV/Case No. 26/99/2022, dated 29/04/2022, BP/KV/Case No.26/902/2022 dated 29/04/2022 and BP/KV/Case No.26/97/2022 dated 29/04/2022 issued by the respondent No.2 under Section 55 of the Maharashtra Regional and Town Planning Act, 1966 (for short "MRTP Act").
3. The learned counsel for the petitioners states that the petitioners would apply for measurements to the City Survey Officer within one week from today. Statement is accepted.
4. It is submitted by the learned counsel for the petitioners that the petitioners shall apply for an appropriate permission under Section 44 of MRTP Act read with Rule 6 of the Maharashtra Development Plans Rules, 1970 within four weeks from the date of

service of the measurements sheet of the measurements carried out by the City Survey Officer. Statement is accepted.

5. The Petitioners shall comply with all the requirements as prescribed under the Maharashtra Development Plans Rules and Development Control Rules while making such application for an appropriate permission under Section 44 of the MRTP Act. We direct the City Survey Officer to take measurements of the land in question in the presence of the Petitioners and the respondent Nos.2 and 3 on 2nd November 2022 at 11:00 am. The petitioners are directed to remain present at the site. If the respondent Nos.2 and 3 also propose to remain present at the time of taking measurements, they are also allowed to remain present. Copy of the measurement sheet shall be provided to the petitioners 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 the measurements, it shall be exclusively paid by the Petitioners.
6. It is made clear that, if an application is not made by the petitioners for the permission under Section 44 of the MRTP Act within a period of four weeks from the date of service of the measurements 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 notice shall be at liberty to proceed with the notice and execute such notice against the offending structure.

7. Till such time that the measurements 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 further 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 petitioners or the offending structure in pursuance of the notices dated 29/04/2022. The 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 an application and shall communicate the order to the petitioners within one week from passing of such order. If the application under Section 44 of MRTP Act is accepted by Respondent Nos.2 and 3, appropriate consequential relief shall be granted in favour of the petitioners within four weeks from the date of passing such order. If such an application is rejected, the Petitioner would be at liberty to file appropriate proceedings as permissible in law. It is made clear that this Court has not expressed any views on the

application for seeking permission under Section 44 of the MRTTP Act that would be made by the Petitioners. All questions on the merits of the said application are kept open.

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

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

(KAMAL KHATA, J.)

(R.D.DHANUKA, J.)