

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO. 1513 OF 2019**

|                                                                    |                 |
|--------------------------------------------------------------------|-----------------|
| Magaldeep Co-Op Housing Society Ltd.                               | ... Petitioner  |
| Versus                                                             |                 |
| The Commissioner, Municipal Corporation<br>Of Greater Mumbai & Ors | ... Respondents |

Mr. M. A. Chaudhari for Petitioner  
 Mr. Sameer Tendulkar for the for Respondent Nos. 3 & 4  
 Ms. Oorja Dhond for the Respondent-Respondent.  
 Mr. D. Pardhi, Junior Engineer (Building and Factory Department)  
 "S" Ward - present.

**CORAM :        A. A. SAYED &  
                         ABHAY AHUJA, JJ**

**DATED :        16<sup>th</sup> MARCH, 2022**

**P.C.:**

The Petition is filed by the Petitioner-Society making grievance of illegal and unauthorized construction carried out by the Respondent Nos. 3 & 4 in flat No. 102 on the first floor and terrace of the Building.

2. Learned Counsel for the Respondent-Corporation states that the Respondent-Corporation has issued a notice u/s 53(1) of the MRTP Act to the Respondent Nos. 3 & 4 pursuant to the order passed by this Court on 27<sup>th</sup> September, 2021.

3. So far as the offending shed on the terrace is concerned,

learned Counsel for the Respondent-Corporation has pointed out that action has been taken and the offending shed on the terrace has been demolished on 10<sup>th</sup> March, 2022. We have been shown the photographs by learned Counsel for the Respondent-Corporation which demonstrate that the offending shed on the terrace has been demolished. We record the statement of learned Counsel for the Respondent Nos. 3 and 4 that without taking permission from the Respondent-Corporation no shed shall be constructed on the terrace.

4. Insofar as construction of offending bathroom adm. 1.2mx1.0mx2.0m in flat no. 102 is concerned, on the request of learned Counsel for the Respondent Nos. 3 & 4, we permit the Respondent Nos. 3 & 4 to make a Regularisation Application to the Respondent-Corporation. If such Regularisation Application is made within a period of three weeks from today, the same shall be decided by the Respondent-Corporation within a period of eight weeks from the date of receipt of the Application. In the event, the decision is adverse to the Respondent Nos. 3 & 4, the Respondent-Corporation shall not take any coercive action against the the Respondent Nos. 3 & 4 for a further period of two weeks from the date of receipt of the decision by the Respondent-Corporation.

5. The Regularisation Application of the Respondent Nos. 3 & 4 shall not be rejected in the first instance by the Respondent-Corporation only because there is no NOC of the Petitioner-Society and on this aspect Respondent-Corporation shall hear the Respondent Nos. 3 & 4 as well the Petitioner-Society. The observation of the Authority on this aspect would only be prima facie.

6. The Writ Petitions is disposed of in the above terms.

ANANT  
KRISHNA  
NAIK

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Date: 2022.03.19  
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**(ABHAY AHUJA, J.)**

**(A. A. SAYED, J.)**