

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**34 WRIT PETITION NO.13552 OF 2021
WITH
CIVIL APPLICATION NO.1170 OF 2022
IN WP/13552/2021**

LAXMAN GOVIND AMRUTWAR THR GPA HOLDER GOVIND
VASANTRAO AMRUTWAR
VERSUS
THE MUNICIPAL COUNCIL THROUGH ITS CHIEF OFFICER AND
OTHERS

Mr. Patil Indrale Anand V., Advocate for the Petitioner.
Mr. P.K. Lakhotiya, Advocate for the Respondent No.1.
Mr. R.B. Bagul, AGP for the Respondent/State.
Mr. P.D. Bachate, Advocate for the Respondent No.3.

**CORAM : SHARMILA U. DESHMUKH, J.
DATED : FEBRUARY 15, 2023.**

PER COURT :

1. The proceeding arises out of the order of the Appellate Court dated 11.10.2021 passed in Misc. Civil Appeal No.10 of 2020 wherein the appeal filed by the Municipal Council Degloor came to be allowed and the order of temporary injunction restraining the Municipal Council from taking action under Section 53 of the Maharashtra Regional and Town Planning Act, 1966 came to be set aside.

2. Although the matter was heard at length, in view of the consensus which has arrived at between the parties, I do not deem it fit to go into the merits and more any *prima facie*, observations, as the structure in question is alleged to be an unauthorised construction of commercial nature on plot forming part of residential complex. Learned counsel for the petitioner on instructions from his client who is present in the Court, submits that the unauthorised structure which is the subject matter of the notice issued by the Municipal Council Degloor under Section 53(1) of the MRTP Act, 1966 will be removed by the petitioner at his own cost within a period of four weeks from today.

3. As grievance is made that the respondent No.3, who is the Secretary of Yashwant Chavan Co-operative Housing Society Ltd., in which the plot of the petitioner is situated, has declined to issue the no objection certificate, as a result of which the application for building permission is not accepted by the Municipal Council Degloor. Learned counsel for Respondent No.3, on instructions, submits that within a period of two weeks from today the no objection certificate for construction will be issued. Learned counsel for the petitioner submits that after the no objection certificate is received, an application will be made along with the proposed plan for sanction to the Municipal Council Degloor. Learned counsel appearing for the Municipal Council Degloor submits that the proposal for building permission will be considered

within a period of four weeks from the date of submission of the application and relevant documents, in accordance with law. The statements of parties are accepted as undertaking by this Court.

4. It is made clear that in event the unauthorised construction is not removed by the petitioner within a period of four weeks, the Municipal Council Degloor will be at liberty to demolish the structure in accordance with the provisions of law.

5. In light of the above, the writ petition stands disposed of. In view of the disposal of the writ petition, nothing survives for further consideration in civil application and same is disposed of.

(SHARMILA U. DESHMUKH, J.)