

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

932 WRIT PETITION NO.4877 OF 2023

SHARIF ASHUMIYA SAYYED AND OTHERS
VERSUS
THE CHIEF OFFICER MUNICIPAL CORPORATION AND
ANOTHER

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Advocate for Petitioners : Ms. P.C. Kale

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CORAM : NITIN W. SAMBRE & S. G. CHAPALGAONKAR, JJ.

Dated: April 26, 2023

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PER COURT :-

1. The challenge in the petition is to the notice issued by the respondents/Municipal Corporation i.e. respondent nos.1 and 2, whereby the petitioners were called upon to remove their illegal construction, details of which are reflected in the impugned notice dated 13th March, 2023.

2. Notices are issued to the petitioners under the provisions of section 52 to 54 of the Maharashtra Regional Town Planning Act and u/s 260 (1)(2) and section 478 of the Maharashtra Municipal Corporation Act.

3. According to the learned counsel for the petitioners, the aforesaid plots were purchased from the agricultural land and, as such, there was no necessity to have permission from the
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Municipal Corporation to construct the farm house. According to her, since the area has come within the jurisdiction of Municipal Corporation, the petitioners have approached respondent no.1 Municipal Corporation on 31st Mach, 2023 by submitting an application alongwith affidavit for regularization of the plot and as a sequel sanction of the structure constructed. According to her, the aforesaid proceedings be decided. This Court must grant interim relief thereby restraining the respondents from demolishing the suit structure.

4. We have appreciated the said submissions in the light of the documents produced on record.

5. Admittedly, there is no sanction or approval from the respondents qua the structure which is constructed by the petitioners on the irregular plots of which regularization is sought under the provisions of the Gunthewari Act. Proposal of the petitioners was for regularization of the plot area under Gunthewari Act is pending consideration as has to be inferred from the payment receipt of Rs.1,000/- towards surcharge deposited by the petitioners. Respondents authorities have

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informed the petitioners that by 15.6.2023 the decision about regularization shall be communicated to the petitioners on the aforesaid prayer for regularization of plot area under the Gunthewari Act.

6. In this backdrop, having regard to the admitted position of structure of petitioners being illegal and unauthorized, we deem it appropriate to dispose of the petition.

7. We direct the respondents authorities to decide claim of the petitioners for regularization of the plot area, as expeditiously as possible, and in any case, within a period of (04) four weeks from the date of receipt of the order. Petition accordingly disposed off.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

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