

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

WRIT PETITION NO. 3029 OF 2023

Mohammed Irfan Mohammed Islam Chaudhary
(Mohammed Irfan Chaudhary) ... Petitioner
Versus
Mumbai Metropolitan Region Development
Authority & Ors. ... Respondents

Mr. Sujay Gawade a/w Sumedha Dhopate, Mudita Pawar i/by Shree &
Co. for the Petitioner.
Ms. Aparna D. Vhatkar for the Respondent No.1-MMRDA.
Mr. Anand Kulkarni for the Respondent No.2.
Mrs. M. P. Thakur, AGP for the Respondent-State.

**CORAM: G. S. KULKARNI &
R. N. LADDHA, JJ.**

DATE : 8th MARCH, 2023

PC. :-

. This petition, under Article 226 of the Constitution of India, has
been filed praying for the following reliefs :

“(a) That this Hon’ble Court be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction in the nature of Writ of Certiorari thereby quashing and/or setting aside the impugned Notices dated 12.12.2022 & 27.02.2023 issued by the Respondent No.1 which are annexed as Exh D & E hereto;

(b) That this Hon’ble Court be further pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature of Writ of Mandamus, thereby directing the Respondent No.2 i.e. Thane Municipal Corporation to consider the representation dated 03.03.2023 annexed as Ex J

hereto, made by the Petitioner for regularization of the structure under Section 53(3) of the MRTP Act and dispose of the same on merits after giving an opportunity of having to the Petitioner;

(c) That this Hon'ble Court be further pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature of Writ of Mandamus, thereby directing the Respondent No.1 to consider the representation dated 03/03/2023, annexed as Exh I hereto, made by the Petitioner for regularization of the structure under section 53(3) of the MRTP Act and dispose of the same on merits after giving an opportunity of hearing to the Petitioner;

(d) That this Hon'ble Court be further pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature of Writ of Mandamus, thereby directing the Respondent No.1 & 2 to give benefit of the Policy as declared by the State Government.

(e) That pending the hearing and final disposal of the present petition, implementation, operation and effect of the impugned Notices dated and 12.12.2022 & 27.02.2023 issued by the Respondent No. 1 under section 53(1) of the MRTP Act, be stayed, and the same may not be acted upon.

(f) Ad-interim relief in terms of prayer clause (e) of the petition be granted.

(g) Costs of the petition be awarded to the Petitioner.

(h) Such further and other reliefs as the nature and circumstances of the case may require be granted to the Petitioner."

2. The contention of the petitioner is to the effect that respondent no.1-Mumbai Metropolitan Region Development Authority (MMRDA) ought not to have issued notice *qua* the petitioner's premises under Section 53 of the MRTP Act, in as much as, such premises are situated in Gaothan area, and to this effect, a representation was made by the petitioner to the designated authority of respondent no.1. The

petitioner has contended that even assuming that the land and structure objected by respondent no.1 falls within the territorial jurisdiction of respondent no.1, the petitioner has however made an application for regularization of the objected structure on 3rd March, 2023, copy of which is annexed as Exhibit I to the petition, which needs to be considered/decided.

3. Learned counsel for the respondent no.1, on instructions, has stated that if such an application is made, it shall be considered by respondent no.1 in accordance with law within a period of four weeks from today. In view of the fair stand taken by respondent no.1, in our opinion, further adjudication of this petition is not called for.

4. Petition is accordingly disposed of by the following order :

(a) Respondent No.1 shall consider the application of the petitioner for regularization of the notice structure within a period of four weeks from today.

(b) All contentions of the parties in that regard are expressly kept open.

(c) Till the time, the regularization application as filed by the petitioner is decided, respondent no.1 shall not take any coercive steps against the petitioner's structure, subject matter of the notice under Section 53(1) of the MRTP Act. Further, in the event, an order adverse to the petitioner is passed, the same shall not be acted upon for a period of two weeks from the date such order is communicated to the petitioner.

5. It is clarified that we have not examined merits of any of the contentions of the petitioner or that of the respondents.

6. The petition is disposed of in the above terms. No costs.

[R. N. LADDHA, J.]

[G. S. KULKARNI, J.]

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