

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15385 OF 2022

Johnson Robert Andrades & ors.

.Petitioner

Vs.

The State of Maharashtra & Ors.

.Respondents

Mr. Vinod Sangvikar i/b.Mr.Umesh R.Mankapure Advocate for Petitioner.
Ms. M.P.Thakur AGP for Respondent No.1/State.
Ms. Swati Sagvekar for Respondent No.2/Corporation.

CORAM : SUNIL B. SHUKRE AND
M. W. CHANDWANI, JJ.

DATE : 31st JANUARY, 2023

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1. Heard learned counsel for petitioners, learned AGP for the State and learned counsel for Corporation.

2. The order dated 2/5/2019 passed by this Court in Writ Petition No.7499/2013 had directed the petitioners to produce all the documents which would denote that Municipal authorities could not have issued notice by invoking Section 53(1) of the Maharashtra Regional And Town

Planning Act, 1966, and on this basis the matter was remanded back to the Vasai Virar Municipal Corporation for taking a fresh decision in respect of the legality or otherwise of the notice issued to the petitioners, for removal of the construction called by the Corporation to be unauthorised.

3. In other words, this Court had granted opportunity to the petitioners to prove their claim that they had not made any unauthorised constructions on the land under their occupation. Now, if we take a look at the order passed by the Corporation on 16/3/2021 which is impugned herein, we would find that inspite of giving of an opportunity by this Court to the petitioners, the petitioners failed to avail of it. The petitioners did not produce any documents denoting that the Corporation had no power to issue notice by invoking Section 53(1) of MRTP Act. Even in the memo of petition there is no averment that certain documents were produced before the Corporation showing the illegality of the notice issued to the petitioners. When a query was made to the learned counsel for petitioner, regarding production of relevant documents before the Corporation, the learned counsel for the petitioners did not answer the question directly and answered it by showing that there is a chart

mentioned in para 4 of the memo of petition (Page No.5) giving the details of the house numbers and year of construction. It is obvious that learned counsel for petitioners has no answer to our query and it shows that petitioners did not produce any documents before the authorities in support of their claim. If this is so, we do not find any flaw or error in the impugned order. There is no substance in the petition. Petition stands dismissed.

(M. W. CHANDWANI, J.)

(SUNIL B. SHUKRE, J.)