

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

WRIT PETITION NO. 6427 OF 2023

Arun Sitaram Kaspate

... Petitioner

Vs.

The State of Maharashtra & Ors.

... Respondents

Mr. Hemant Ghadigaonkar for the Petitioner.

Ms. Kavita Solunke AGP for Respondent No.1 & 4-State.

Mr. Deepak More a/w Shivram Gawade for Respondent Nos. 2 and 3.

**CORAM : ABHAY AHUJA AND
M.M. SATHAYE, JJ.**

**DATE : 22 MAY, 2023
(Vacation Court)**

P.C. :

1. Rule. Rule is made returnable forthwith. Learned AGP waives service for Respondents No. 1 and 4. Learned counsel for Respondents No. 2 and 3 waives service. Taken up for final disposal by consent.

2. This Petition is filed challenging notice dated 29th April 2022 issued by Respondent No.3 Designated Officer,(the Executive Engineer), Pimpri-Chinchwad Municipal Corporation, u/s 478 (1) r/w section 433-C of the Maharashtra Municipal Corporation Act, 1949, instructing the Petitioner to demolish the impugned structure described in the said notice.

3. Petitioner seeks time to apply for regularization/ development permission of this structure. He submits that he would file application for measurement of the impugned structure within one week from today before filing the application for regularization/development permission of impugned structure. Statement is accepted. If such application is filed for measurement of the impugned structure, the measurement shall be carried out by the Respondent No.4 within one week thereafter. Copy of the measurement report shall be submitted to both the parties within two days from the date of carrying out measurement. One week thereafter, Petitioner undertakes to file an application for regularization/ development permission under Section 54 of the MRTP Act to Respondent No.3. The application made by Petitioner, shall be considered by Respondent No. 3 within two weeks thereafter.

4. It is made clear that if the application for measurement is not made within one week from today and for regularization within one week from the date of Respondent No.4 furnishing copy of measurement, the interim protection passed would stand vacated without further order. A copy of the order that would be passed by the Respondent No.2 should be served

upon the Petitioner within 48 hours after passing such order. If the application for regularization made by the Petitioner is allowed, consequential reliefs sought for regularization shall be granted and if the same is rejected, no coercive steps should be taken for a period of two weeks from the date of communication of such adverse order. During the pendency of the application for regularization and for a period of 2 weeks from the date of communication of the order after such adverse order, the Respondent No.2 would not take any coercive steps against the Petitioner pursuant to the impugned notice. It is made clear that we have not expressed any view on the merits of the application for measurement and the application for regularization/development permission, which is proposed to be made by the Petition. All contentions of the parties are kept open.

5. Writ Petition is disposed of in aforesaid terms. No order as to costs.

(M.M. SATHAYE, J.)

(ABHAY AHUJA, J.)