

Arun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7641 OF 2023

Rohit Haribhau Balwadkar

...Petitioner

Versus

State of Maharashtra & Ors

...Respondents

Mr Rahul B Khot, for the Petitioner.

Mrs RM Shinde, AGP, for State.

Mr Rajdeep Khadapkar, for PMC.

**CORAM G.S. Patel &
 Kamal Khata, JJ.**

DATED: 31st August 2023

PC:-

1. This is a typical problem in the city. An illegal structure is demolished. The structure comes up again. A fresh notice for demolition is issued. A Writ Petition or a suit for injunction is filed. This kind of cycle typically goes on.

2. The fact that the commercial structures were demolished earlier and have resurfaced, so to speak, cannot be denied. It is also admitted that the structures are entirely without authorisation.

3. We totally deprecate this practice of putting up structures or effecting constructions without prior building permissions and then seeking shelter under the so-called and wholly misused and abused 'regularisation' policy. That which is illegal per se cannot be

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regularised. An illegality is not an irregularity. To allow retention of an illegal structure on the basis that it is being 'regularized' makes a mockery of the planning process, the concept of planned development under the Maharashtra Regional & Town Planning Act, 1966, and we might as well tear up all development plans and development control regulations. The proliferation of these illegalities strikes at the very roots of the rule of law and undermines the belief of every law-abiding citizen. Just because this is *planning* law does not mean it can be ignored.

4. The Petitioners admit that their structures are unauthorised and have simply been put up without any permissions whatsoever. We can grant them no latitude. The Petition is rejected. There will be no order as to costs.

5. The Pune Municipal Corporation ("PMC") will proceed immediately. We were told that there was a drive today that was held back because production of the matter was granted. While we appreciate the courtesy on part of the PMC, it is now at liberty to proceed with the removal of all unauthorised structures in accordance with law.

6. All concerned will act on production of an authenticated copy of this order.

(Kamal Khata, J)

(G. S. Patel, J)