

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9693 OF 2022

Balasaheb Babanrao Barate & Ors. ... Petitioners

Versus

The State of Maharashtra & Anr. ... Respondents

Mr. Anil Anturkar, Senior Advocate a/w. Mr. Ajinkya M. Udane for the petitioners.

Mr. A.A. Alaspurkar, APP for the State/respondent no. 1.

Mr. Abhijit Kulkarni a/w. Mr. Aditya Mahadik, Ms. Sweta Shah, Mr. Krusha Jaybhay for respondent no. 2-PMC.

CORAM: G. S. KULKARNI
& R.N. LADDHA, JJ.
DATED: 21 March, 2023

P.C.

1. We have heard Mr. Anturkar, learned senior counsel for the petitioners and Mr. Kulkarni, learned counsel for the Municipal Corporation. We have also perused the orders passed by the co-ordinate Benches of this Court and more particularly, the order dated 10 August, 2022 and subsequent order dated 9 February, 2023. There appears to be some controversy in regard to the permissible FSI insofar as the green zone is concerned. The issue appears to be the subject matter of consideration before the State Government.

2. Be that as it may, the present petition has been filed by 16 petitioners assailing a notice under section 53(1)(a) of Maharashtra Regional and Town Planning Act (for short "MRTP Act"). Thus, the objection as raised to these structures by the Municipal Corporation also varies in each of the notices. It may not be possible for this Court to examine the merits of each single case as clubbed by the petitioners and presented before this Court. Considering such

complexion of the matter, in our opinion, if the petitioners are at all aggrieved by the action taken by the Municipal Corporation under section 53(1)(a) of MRTP Act, they would be required to independently assail the notices issued by the Corporation in individual proceedings, as may be permissible in law.

3. Disposed of with liberty to the petitioner to file independent proceedings.

4. To enable the petitioners to do so, ad-interim protection earlier granted shall continue to operate for a period of 15 days from today.

5. All contentions of the parties are expressly kept open.

6. Insofar the observations as made by the Court in the previous orders expecting the State Government to place on record its policy in regard to green belt, we keep all contentions in that regard open to be examined in appropriate proceedings.

(R.N. LADDHA, J.)

(G. S. KULKARNI, J.)