

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

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WRIT PETITION NO.1557 OF 2023

Aslam K. Khan & Anr.

.. Petitioners

Versus

Lonavala Municipal Council, Lonavla,
District Pune & Ors.

.. Respondents

Mr.A.V. Anturkar, Senior Advocate a/w Mr.S.B. Deshmukh for the
Petitioners.

Mr.A.A. Garge for the Respondent Nos.1 & 2.

Mr.R.S. Apte, Senior Advocate a/w Mr.S.C. Wakankar & Ms.Aishwarya
Bapat for the Respondent Nos.3 to 5.

Ms.Sushma S. Bhende, AGP for the Respondent No.6.

**CORAM : R.D. DHANUKA &
GAURI GODSE, JJ.**

DATE : 24th April 2023

P.C.:-

. Learned senior counsel for the Petitioners seeks leave to
amend the petition for adding the State of Maharashtra as party-
Respondent. Leave is granted as prayed. Amendment to be carried out
forthwith.

2. Rule. Learned counsel appearing for the Respondents waive
service for respective parties. Rule is made returnable forthwith. By
consent of parties, Petition is taken up for final disposal.

3. This petition is filed for issuing directions against the
Respondent Nos.1 and 2 to take action in pursuance of the notice dated
7th July 2018 issued under Section 53(1) of the Maharashtra Regional
Town Planning Act, 1956 (for short “the MRTPA Act).

4. There are affidavits-in-reply filed by the Respondent No.3 as well as the Respondent Nos.1 and 2 with respect to the said notice issued under Section 53(1) of the MRTP Act.

5. There are various proceedings pending with respect to the title of the property in question with respect to the said notice. There is an appeal filed by the Respondent No.3 challenging the order passed on regularisation application in respect of the said notice under Section 53(1) of the MRTP Act.

6. Both the parties, on instructions, states that in view of the disputed facts with respect to the said notice and pending litigation, they agree that the petition can be disposed off by issuing direction for deciding the appeal filed by the Respondent No.3 before the State Government.

7. Learned counsel agree that these directions can be issued without assigning any reason. It is made clear that we have not expressed any view in respect of validity of the notice and/or the order passed on regularisation application and/or maintainability of the appeal filed by the Respondent No.3. All the contentions of all the parties are kept open.

8. Writ Petition is disposed off by passing following order:-

(i) Respondent No.6 shall permit the Respondent No.3 to add the Petitioners as parties to the appeal as well as the application for condonation of delay;

(ii) Respondent No.6 to decide the application for condonation of delay in Appeal preferred by the Respondent No.3 which is annexed at page 292 of the writ proceedings within a period of six weeks from today after hearing the parties to the appeal including the Petitioners, who are permitted to be added as party to the appeal;

(iii) In event the order that is passed by the Respondent No.6 is adverse to the Respondent No.3, the same will not be implemented for a period of two weeks from the date of communication of the said order to the Respondent No.3 and Respondent No.3 would be at liberty to adopt appropriate proceedings as permissible in law;

(iv) In event the application for condonation of delay is allowed, the appeal filed by the Respondent No.3 shall be decided within a period of six weeks thereafter;

(v) In event the order passed in appeal is adverse to the Respondent No.3, the same will not be implemented for a period of three weeks from the date of communication of the said order and the Respondent No.3 would be at liberty to take out appropriate proceedings as permissible in law;

(vi) Respondent Nos.3 to 5 shall not carry out any further construction or any alteration with the offending structure without taking necessary permission from the Authority;

(vii) No coercive action shall be taken with respect to the offending

structure during the pendency of the proceedings and thereafter as directed in the aforesaid clauses.

(viii) The Petitioners, Respondent No.1 and Respondent No.3 shall appear before the Respondent No.6 on 2nd May 2023 at 11.30 a.m. to enable the Respondent No.6 to fix the schedule of hearing;

(ix) We have not expressed any view on merits of the disputes. All contentions of all parties are kept open.

9. Writ petition is disposed off. Rule is made absolute in above terms. All the parties to act on the authenticated copy of this order.

GAURI GODSE, J.

R.D. DHANUKA, J.