

Wadhwa

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15448 OF 2023

Sagar Dnyaneshwar Shelar ...Petitioner
Versus
Pimpri Chinchwad Municipal Corporation & Ors ...Respondents

Mr Sagar Kursija, i/b HD Chavan, for Petitioner.
Mr Deepak More, with Shivram A Gawade, for Respondent No. 1.
Mr PG Sawant, AGP, for Respondents Nos. 3 & 4.

CORAM Kamal Khata &
Jitendra S Jain, JJ.
DATED: 26th December 2023
(Vacation Court)

PC:-

1. Not on board. Mentioned. Taken on Production Board.
2. The Petitioner has filed the present Petition seeking to quash and set aside the impugned notice dated 3rd November 2023 issued by Respondents Nos. 1 and 2 under Section 55 of the Maharashtra Regional and Town Planning Act, 1966 (“**MRTP Act**”).
3. The Petitioner had erected a temporary structure on the basis of Temporary Permission Certificate dated 15th September 2015 issued by Respondent No. 1.

4. It is the case of the Petitioner that he did not apply for extension of permission for construction. The Petitioner is running a business in the name of 'Garve Car Mania Pvt Ltd'. The Petitioner has a Shop and Establishment Licence as well as electricity connection in the name of the said business.

5. The Respondent No. 1 has issued a notice dated 3rd November 2023 under Section 55 of the MRTP Act which this Petition impugnes.

6. The Advocate for the Petitioner contends that the owners of the adjacent land have also received the similar notices; they claim parity with the other owners who were granted stay on those impugned notices, on the ground that they desire to make an application for regularisation and retention under Section 44 of the MRTP Act.

7. He submits that the Petitioner seeks an opportunity to apply for measurement by the City Survey Officer ("CSO") and in the meantime, the Respondents should not take any coercive steps against his structure.

8. Mr. More, the learned advocate for Respondent Nos. 1 & 2 submits that the Petition is an abuse of the process of law. The Petitioner has obtained a temporary construction certificate which has long expired. The Petitioner has not even made an application for regularisation or for measurement after the said temporary structure permission period had lapsed. Though the Petition was

filed on 7th December 2023 no orders were obtained from the regular Court.

9. In response thereto, the Petitioner's Advocate states that the matter was circulated for 11th December 2023 but on account of paucity of time, could not be taken up and the same has been adjourned to 3rd January 2024.

10. We have heard both Advocates.

11. We see no reason to grant any reliefs whatsoever to the Petitioner, in view of the Petitioner's conduct. The Petitioner has failed to take appropriate steps since the expiration of the temporary licence to construct i.e., 15th September 2016. We cannot allow illegalities to continue in perpetuity. The structure is illegal and has to be demolished.

12. The impugned notice ought to have been served on the Petitioners seven years ago, but that does not give any right to the Petitioner to continue using the structure without appropriate permission. As an honest law abiding citizen he ought to have taken permissions to either continue the structure or apply for new construction after the permission lapsed.

13. The Petitioner after demolition of the structure, may seek appropriate permission for new construction in accordance with law.

14. The Petition lacks merits and the same is dismissed with costs of Rs. 50,000/- to be paid to the High Court Law Library within one week from today. The respondents will not entertain any application from the Petitioner until they show compliance of payment of costs.

15. Parties to act on an authenticated copy of this order.

(Jitendra S Jain, J)

(Kamal Khata, J)