

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1768 OF 2024**

Jagannath sadashiv Patil & Ors.Petitioners
Vs.
The State of Maharashtra & Anr.Respondents

Mr. Umesh Hanmantrao Pawar, for the Petitioners.
Mr. Rupesh Bobade, for Respondents.
Mr. J. P. Patil, AGP for Respondent-State.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 5th December 2025

PC.:-

1. The present Petition is filed seeking following prayer:

“(b) This Hon’ble Court be pleased to quash and set aside the Impugned judgment and order dated 5.12.2019 passed by Respondent No.1 Ld. Director, Town Planning, Maharashtra State, Pune in Appeal No.3/2019 and be kindly allow the Petitioners proposal dated 22.3.2018 submitted before the Respondent No.2 Municipal Council Islampur.”

2. The Petitioners were served with notices dated 8th August 2016 & 26th August 2016 under Section 35(1) of Maharashtra Regional & Town Planning Act, 1966 (for short “MRPT Act”) by Respondent No.2 Municipal Council, Islampur. The Petitioners submitted

Application/proposal under Section 53 of MRTP Act along with documents and sought construction permission in respect of construction carried out on City Survey No.2411 & 2087.

3. On 12th April 2019, Respondent No.2 communicated that Petitioners' proposal had been rejected on ground that they had already raised construction. The Petitioners thereafter filed an Appeal before Director of Town Planning, Maharashtra State, Pune against order of Respondent No.2. However, same is also rejected.

4. On perusal of impugned order shows that Petitioners' proposal was considered under Section 44 of the MRTP Act, as if they were seeking permission for a fresh development.

5. In fact, Petitioners had already raised construction over suit property. Therefore, their proposal ought to have been considered in terms of Section 53(3) of the MRTP Act.

6. Mr. Umesh Pawar, learned counsel appearing for Petitioners, on instructions, submit that Petitioners would file a fresh proposal along with necessary documents for regularization of construction already made.

7. Mr. Rupesh Bobade, learned counsel appearing for Respondent-Municipal Council, on instructions, submits that if such a proposal is made, it would be considered in accordance with law.
8. In that view of matter, impugned order is quashed and set aside.
9. The Petitioners shall be at liberty to file a fresh proposal in terms of Section 53(3) of MRTP Act, within a period of four weeks from today. Once such proposal is filed, Respondent No.2 shall communicate defect, if any, within a period of four weeks thereafter and shall finally decide proposal of Petitioners within period of three months from date of this order.
10. It is clarified that proposal of Petitioners shall not be declined consideration on the ground that Petitioner could not bring a no objection certificate from co-owner namely Eknath Rangrao Patil.
11. Writ Petition is **allowed** in aforesaid terms.

(S. G. CHAPALGAONKAR, J.)