

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL WRIT PETITION NO. 1807 OF 2024**

Meenanath S/o Shivram Patil & Anr.

... Petitioners

V/s.

Vivek S/o Balaram Deshmukh & Ors.

... Respondents

Adv. Abhinandan B. Vagyani i/b Shri. S.V. Patil for Petitioners.
Adv. Anand S. Patil for Respondent Nos. 1 and 2.
Adv. Tanu N. Bhatia, AGP for Respondent Nos. 5, 6 & 8-State.
Adv. B.B. Sharma for Respondent No.7 CIDCO.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

DATE : 10th January 2025.

P.C. :

1) Mr. Bharat Thakur, Controller of Unauthorized Construction of CIDCO has filed Affidavit dated 4th October 2024. In para No. 11 thereof, he has admitted the fact that, the buildings in question are illegally and unauthorizedly constructed on the suit property.

2) It appears to us that, despite the said fact, no action is taken against the unauthorized or illegal constructions by the Competent Authority of CIDCO.

3) Recently, the Hon'ble Supreme Court in case of *Rajendra Kumar Barjatya and Another Vs. U.P. Avas Evam Vikas Parishad and Others* reported in 2024 SCC OnLine SC 3767, in para No. 20 has held as under:

“20. In the ultimate analysis, we are of the opinion that construction(s) put up in violation of or deviation from the building plan approved by the local authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy. Delay in directing rectification of illegalities, administrative failure, regulatory inefficiency, cost of construction and investment, negligence and laxity on the part of the authorities concerned in performing their obligation(s) under the Act, cannot be used as a shield to defend action taken against the illegal/unauthorized constructions. That apart, the State Governments often seek to enrich themselves through the process of regularisation by condoning/ratifying the violations and illegalities. The State is unmindful that this gain is insignificant compared to the long-term damage it causes to the orderly urban development and irreversible adverse impact on the environment. Hence, regularization schemes must be brought out only in exceptional circumstances and as a onetime measure for residential houses after a detailed survey and considering the nature of land, fertility, usage, impact on

the environment, availability and distribution of resources, proximity to water bodies/rivers and larger public interest. Unauthorised constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to roads, which are primarily designed to be made available in orderly development and authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. Unless the administration is streamlined and the persons entrusted with the implementation of the act are held accountable for their failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue to turn a nelson's eye to all the illegalities resulting in derailment of all planned projects and pollution, disorderly traffic, security risks, etc.”

4) In view thereof, we are left with no other alternative than to direct the Managing Director of the Respondent No.7, to file his detailed reply to the Petition.

5) Respondent No.7 shall not delegate his powers to any subordinate Officer. We direct the Respondent No.7 to peruse the entire record of the present case and then only to proceed to file reply. If the Respondent No.7 is of the view that, the law laid down by the Hon'ble Supreme Court under Article 141 of the Constitution of India is applicable to

him so also to the Respondent No.7 and other Government Authorities, we expect him to follow the law of land scrupulously and strictly. The said Affidavit be filed within a period of three weeks from today.

6) Stand over to 7th February 2025.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)