

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

**CONTEMPT PETITION NO. 76 OF 2024
WITH
INTERIM APPLICATION NO. 11638 OF 2024
IN
CONTEMPT PETITION NO. 76 OF 2024**

Shreepad Balkrishna Thite ...Petitioner
Versus
Iqbal L. Chahal, Municipal Commissioner & Ors. ...Respondents

Mr. Gireesh U. G. Menon for Petitioner.
Ms. Uma Palsale Desai a/w Mr. Pradeep M. Patil i/b. Adv. Komal Punjabi for
Respondent Nos. 1 to 3– BMC.
Mr. A. R. Patil, Addl. GP for the Respondent No. 4
Mr. Rajesh A. Revankar i/b. Mr. A. G. Revankar & Co., for Respondent Nos. 5
and 6.
Mr. Rishikesh Chavan, JE (B&F), M.C.G.M., H/West Ward present.

CORAM : M. M. SATHAYE, J.

DATED : 15th JULY 2025

P.C.:

1. Heard learned counsel for the parties. Perused the record.
2. This Contempt Petition is filed by the Original Plaintiff who had filed L. C. Suit No. 2647 of 2002 challenging notice u/s. 351 of the Mumbai Municipal Corporation Act, 1888 dated 11/10/2001. The said Suit was dismissed and aggrieved by the said dismissal, the present Petitioner filed First Appeal No. 102 of 2007. During the pendency of the Appeal, the Petitioner applied for regularization on 15/01/2021, under the policy of regularization.

3. This Court on 01/02/2023, taking cognizance of the fact that the Petitioner had already applied for regularization, held that once the Application for regularization is made, the Court has to proceed on the footing that subject matter construction is unauthorized. In that view of the matter, the Appeal was disposed of by directing the Respondent – Municipal Corporation to decide the regularization application in accordance with law.

4. It is not disputed that on 15/01/2021, the Petitioner had applied to the Municipal Corporation for regularization. It is also not disputed that pursuant to that Application (which is dated 13/01/2021 on which there is a stamp of Municipal Corporation receiving the same on 15/01/2021), a communication dated 30/05/2023 was issued by the Respondent – Municipal Corporation through its designated officer. The first reference made in the communication is the regularization application referred by this Court in the order dated 01/02/2023. The said communication called upon the Petitioner to submit the proposal for regularization of the mezzanine floor on the online portal - AUTODCR of the competent authority. It is further not disputed that this communication and the request made therein was acted upon by the Petitioner and online application under AUTODCR was made.

5. Learned Counsel for the Respondent-Municipal Corporation pointed out that the said AUTODCR application and the map submitted therewith by the Petitioner indicates that the said application was for proposed raising (increasing height) of the roof of the existing mezzanine floor of the subject matter premises. It is further pointed out that since the proposal submitted was without requisite documents, endorsement was made about non submission of the necessary document as per guidelines and prevailing

policy circular.

6. With the aforesaid admitted facts, the first thing that is necessary to be noted is that pursuant to the order of the High Court, regularization application was processed. Then the Petitioner was required to submit the application through the online portal AUTODCR, which the Petitioner did. When the plan submitted alongwith online application is perused, it is clearly seen that the proposal was not for regularization but for raising of hight of the roof. In such circumstances, if the application remains at that stage of submission of documents as demanded, it cannot be said that the Respondent–Municipal Authority has willfully disobeyed the order of this Court. It is also seen that communication dated 18/07/2023 informed the Petitioner that till date, the Petitioner has failed to inform the office about necessary details.

7. It is stated in the affidavit-in-reply dated 17/02/2025 that the directions to file regularization proposal under online AUTODCR portal was in tune with the policy decision and guidelines under circular dated 11/08/2016, where under the procedure has been adopted to formulate and streamline online approval for regularization proposals.

8. Having found that under the order of the Court and by accepting further directions from the Municipal Corporation, the Applicant has not filed regularization proposal, but in essence applied for raising/increasing the height of the existing mezzanine floor and having further found that therefore the proposal as filed, was not processed for regularization, this Court does not find any willful disobedience or breach by the Respondents.

9. In that view of the matter, there is no merit in the Petition and the

same is dismissed. Pending Interim Application is also dismissed. No order as to the costs.

10. All concerned to act on duly authenticated or digitally signed copy of this order.

(M. M. SATHAYE, J.)