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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6866 OF 2025

Rohan Garima CHS Ltd.

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Sanjay Koban, Advocate for the Petitioner.

Smt. M.P. Thakur, AGP for Respondent Nos.1 & 2/State.

Mr. Gaurav Shahane i/by Mr. Abhijit Kulkarni, Advocate for Respondent Nos.3 & 4.

CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 8th SEPTEMBER, 2025

P.C. :-

1. The Petitioner has drawn our attention to Prayer
Clauses [A], [B] and [C], which read as under :-

“[A] That this hon'ble Court be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ order or direction thereby declaring the provisions of section 53(1)(a) and 53(1)(b) of the MRTP Act, 1966 to the extent to which the said provisions are made applicable to an unauthorised development on private property (other than public place) and where there is no order for demolition made by court of law are ultra vires Article 21, 14 of the Constitution of India and violate the directions issued by the hon'ble Apex Court in in WP (Civil) No. 295 of 2022 (Re. Directions in the matter of demolition of structures)

[2024 SCC Online SC 3291];

[B] That pending the hearing and final disposal of this writ petition the hon'ble Court may be pleased to stay the effect and operation of provisions of section 53(1)(a) and 53(1)(b) of the MRTTP Act, 1966 so far as they are made applicable to an unauthorised development on private property (other than public place) and where there is no order for demolition made by court of law till the time respondent no. 1 State makes suitable amendment to the section 53(1)(a) mandating prior notice period of minimum 15 (fifteen) working days to the owner, developer or occupier in case of an unauthorised development on private property (other than public place) and where there is no order for demolition made by court of law;

[C] That pending the hearing and final disposal of this writ petition the hon'ble Court may be pleased to direct the respondent no. 1 State to issue forthwith directives to all concerned local bodies/authorities, town planning authorities, etc. within its jurisdiction to strictly comply with the directions given by the hon'ble Apex Court in WP (Civil) No. 295 of 2022 (Re. Directions in the matter of demolition of structures) [2024 SCC Online SC 3291] and further, issue directive to give prior Notice period of minimum 15 (fifteen) working days to the owner, developer or occupier in case of demolition of an unauthorised development on private property (other than public place) and where there is no order for demolition made by court of law;”

2. We have heard the learned Advocate for the Petitioner for quite some time. Paragraph No. 94.2 of the Judgment delivered by the Hon'ble Supreme Court in ***Directions In The Matter of Demolition of Structures, In RE, (2025) 5 SCC 1***, reads as under :-

“94.2. The notice shall be served upon the owner/occupier by a registered post A.D. Additionally, the notice shall also be affixed conspicuously on the outer portion of the structure in question.”

3. The Petitioner/Society was issued with a notice dated 27th February, 2025, under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 (**‘MRTP Act’**). The Society was called upon to produce the documents to indicate that the structure identified, was legally permitted and the construction is in terms of such permission.

4. It is undisputed that the Petitioner neither applied for a permission, nor had moved any such proceedings for seeking such permission for erecting a vermiculture/vermicomposting plant inside the premises of the society’s building. The photographs seen by us, appear to be a large-scale project, which is erected within the premises practically occupying the entire space. The same came to be demolished after 24 hours in the light of the liberty granted to the society to either produce the documents before the Corporation to prove that the structure is legal or to remove the structure within 24 hours.

5. Considering the above and in view of the Judgment delivered by the Hon'ble Supreme Court in *Directions In The Matter of Demolition of Structures* (supra), *prima facie*, we do not find that Sections 53(1)(a) and 53(1)(b) of the MRTP Act could be said to be arbitrary.

6. The learned Advocate for the Petitioner desires to approach the Civil Court for contending that the demolition was illegal and the Petitioner was not given sufficient time, and for seeking damages. He seeks leave to withdraw this Petition, on instructions.

7. In view of the above request, this **Writ Petition is disposed off** as withdrawn. If the Petitioner approaches the Civil Court for the redressal of the grievance and for damages/compensation etc., all the contentions are kept open including, whether the vermiculture/vermicomposting project, plumbing, electricity wiring and panels, were legally erected or not.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)