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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.12635 OF 2025
IN
WRIT PETITION NO.4179 OF 2011

Takshashila Hotels Pvt. Ltd. .. Applicant / Petitioner

Versus

The Municipal Corporation of the City of Pune .. Respondent

***Mr. Pradeep Thorat, a/w Mr. S. Shamim i/b. S. Shamim & Co.,
Advocates for the Applicant / Petitioner.***

Mr. Abhijeet Kulkarni, Advocate for Respondent (through V.C.).

CORAM: AMIT S. JAMSANDEKAR, J.
DATE: OCTOBER 22, 2025
(Vacation Court)

P. C.

1. By consent of the Applicant/Petitioner and the Respondents, the Application is taken up for final hearing. Heard Mr. Thorat, the Learned Counsel appearing for the Applicant / Petitioner and Mr. Kulkarni for the Respondent.

2. By the present Application, the Petitioner is seeking extension of time, to comply with the order passed by this Court on 20th September, 2025 in the above captioned Writ Petition.

3. On 20th September, 2025 this Court, after recording undertakings and submissions of the parties, passed the following order :-

- “ 1. *This petition is filed by the plaintiff to challenge the dismissal of his application for interim protection during the pendency of the suit. The suit is filed to challenge the notice dated 15th September 2009 issued by the respondent-corporation under Section 478(1) of the Maharashtra Municipal Corporation Act, 1949 ("The 1949 Act") and Notice dated 15th September 2009 issued under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 ("MRTP Act").*
2. *Learned counsel for the petitioner makes a grievance that without issuing any show cause notice the action under Section 478(1) of the 1949 Act has been initiated which is contrary to the well settled legal principles in the decision of our court in the case of **Shri Sopan Maruti Thopte and Another vs. Pune Municipal Corporation and Another**'. He further points out that on earlier occasion also a similar notice was issued which was challenged in Regular Civil Suit No. 1404 of 1995. The trial court had partly decreed the suit directing the petitioner to remove water tank from rear side to the terrace or to the southern side margin within three months and further directed the petitioner to use parking area only for parking. By the said decree the notice issued by the Corporation under Section 478 (1) of the 1949 Act was declared as null and void. This decree was challenged by the petitioner in Civil Appeal No. 71 of 1998. The first appellate court by judgment and decree dated 21st August 2001 allowed the appeal and set aside the directions for demolition granted by the trial court in clause (2) of the impugned decree.*
3. *Learned counsel for the petitioner submits that the corporation has again issued the notice, making similar allegations. He therefore submits that the petitioner would be entitled to interim relief during the pendency of the suit. He submits that this court vide order dated 13th July 2011 had issued notice for final disposal of the petition and further restrained the corporation from demolishing the construction*

referred to in the suit notice. He points out that this court vide order dated 13th July 2011 had clarified that the protection granted by this court would not prevent the corporation from issuing show cause notice as contemplated in the decision of this court in the case of **Sopan Maruti Thopte**.

4. This petition arises out of Regular Civil Suit No. 1408 of 2009. The petition is pending since 2011. Hence a query was made to the learned counsels for the parties as to whether the suit is still pending. In response to this query learned counsel for the petitioner has tendered copy of a recent print out of the case status of the suit. The suit is renumbered as Regular Civil Suit No. 201408 of 2009. The stage of the case is shown as stayed by the High Court. Print out of the case status is taken on record and marked "X" with today's date of identification.
5. I have perused the record of this petition. On 13th July 2011, this court granted a temporary injunction restraining the corporation from demolishing the construction referred to in the impugned notice till 27th July 2011. Thereafter, on 24th August 2011, the ad-interim order of 13th July 2011 was continued till 9th September 2011. On 9th September 2011, the ad-interim order was continued till further orders. The office remark dated 9th November 2011 shows that a status quo writ was issued by the office. Though there was no status quo order, the office has issued a writ of status quo. The ad-interim relief granted by this court is an injunction restraining the corporation from demolishing the structure. This court has neither passed any order of status quo nor there is any stay granted to the further proceeding of the suit.
6. By order dated 4th April 2013 Rule was issued in the petition and interim relief was granted in terms of prayer clause (c). Prayer clause (c) is for stay to the impugned orders rejecting the petitioners' application for temporary injunction.
7. I have carefully perused the papers of this petition and all the order passed. There is no order granting stay to the further proceedings of the suit. It is shocking that the suit of 2009 has remained pending till 2025 for no reason.
8. Learned Registrar (Judicial I) is therefore requested to find out as to why the stage of the suit was shown as stayed by High Court and why the hearing of the suit was not proceeded. Office is directed to forward copy of this order alongwith papers of the petition to the Registrar (Judicial I) to find out the correct status of the suit and why the suit remained pending.
9. In the compilation filed on behalf of the petitioner, a notice dated 15th September 2009 issued under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 ("MRTP Act") is annexed. A reference to the said notice under Section 53(1) is made in paragraph

3 of the plaint. Paragraph 3 says that both the notices i.e. notice under Section 478(1) of the 1949 Act bearing no. 5324 and notice dated 15th September 2009 under Section 53(1) of the MRTP Act is challenged. The notice under Section 53(1) is styled as 'supplement 6' which is attached to the notice under Section 478(1) of the 1949 Act. Notice under Section 53(1) clearly states that within one month of receipt of the notice under Section 53(1), the notice under Section 478(1) bearing no. 5324 shall be implemented. Thus, there is no manner of doubt that the notice issued by the corporation is under Section 53(1) of the MRTP Act and petitioner has challenged the said notice alongwith notice under Section 478(1) of the 1949 Act.

10. Since the main challenge in the suit is to the notice under Section 53(1) of the MRTP Act, learned counsel for the petitioner on instructions submits that the petitioner be granted time to apply for regularisation. He on instructions submits that the regularisation application shall be filed within four weeks.
11. Learned counsel for the corporation submits that if the regularisation application is filed, the same shall be decided in accordance with law. However, the petitioner be directed to file affidavit-cum-undertaking stating that if regularisation application is not favourably decided, the offending structure shall be removed.
12. Learned counsel for the petitioner submits that subject to the remedy to file an appeal, in the event regularisation application is adversely decided, the petitioner shall file an affidavit-cum-undertaking in this court that the offending structure shall be remedy, if the decision on the regularisation application is adverse to the petitioner.
13. In view of the aforesaid submissions nothing survives for further consideration in the petition as well as the suit. Hence, learned counsel for the petitioner seeks leave to withdraw the suit with liberty to file appropriate application for regularisation in view of the notice under Section 53(1) of the MRTP Act.
14. In view of the aforesaid facts and circumstance and the statements made on behalf of both the parties the writ petition is disposed of by passing the following order:
 - (i) The petitioner (plaintiff) is permitted to apply for regularisation in terms of notice dated 15th September 2009 issued under Section 53(1) of the MRTP Act within four weeks from today.
 - (ii) If such an application is filed within four weeks from today, the corporation shall decide the same in accordance with law within four weeks thereafter.
 - (iii) The petitioner shall file an affidavit-cum-undertaking in this court within two weeks from today stating that the regularisation application shall be filed within four weeks from today and if the decision is adverse to the petitioner, the offending structure as per the notice dated 15th September 2009 under Section 53(1) of the

MRTP Act shall be removed subject to the right to appeal under the MRTP Act. The undertaking shall further state that the petitioner shall not carry out any further construction and shall not create any third party rights.

- (iv) Subject to the petitioner filing an undertaking in this court as directed by this order, the corporation shall not take any coercive action to implement the impugned notices till the decision of the notice under Section 53(1) of the MRTP Act.*
- (v) If the decision of the corporation is adverse to the petitioner, the notice shall not be implemented for a period of four weeks from the date of intimation of the decision to the petitioner.*
- (vi) The petitioner is permitted to withdraw Regular Civil Suit No. 201408 of 2009 with liberty to file regularisation application as permitted by this order.*
- (vii) It is clarified that if the decision on the notice under Section 53(1) of the MRTP Act is adverse to the petitioner, subject to the petitioner's right to appeal under the MRTP Act and subject to orders passed in the appeal, the petitioner shall remove the offending structure within four weeks from the date of communication of the decision by the corporation.*
- (viii) It is clarified that if the undertaking as directed by this order is not filed within the time granted, the corporation shall implement the impugned notices dated 15th September 2009 in accordance with law.*
- (ix) The Writ Petition is disposed of in the aforesaid terms.*
- (x) Copy of his order and papers of the petition be forwarded to the learned Registrar (Judicial I) for compliance of the directions issued in paragraph 8 of this order. Necessary report shall be filed within eight weeks from today.*
- (xi) List the petition for reporting compliance and further directions, if necessary on 24th November 2025."*

4. Today, Mr. Thorat is seeking an extension of time to comply with the operative part of the order dated 20th September 2025. The reasons for seeking such an extension are more particularly mentioned in paragraphs 4 to 7 of the Interim Application.

5. Mr. Kulkarni, the Learned Counsel appearing for the Respondent, vehemently opposed the Interim Application. It is submitted on behalf of the Respondent that, when the Petitioner gave the undertakings on 20th September 2025, the Petitioner was well aware of its position and timelines. According to the Respondent, since the order dated 20th September 2025, the Petitioner has not taken any practical and effective steps to comply with the order. Mere Application under section 53(1) of the MRTP Act is not sufficient. According to Mr. Kulkarni, there is no provision in law which recognises the regularisation of a common area and therefore, no extension ought to be granted to the Applicant.

6. Mr. Thorat, the learned Counsel, justified the Application on the statements made in paragraphs 4 to 7 of the Application. The Petitioner, *inter alia*, has stated in the Application that the required documents to support the Application under Section 51(1) of the MRTP Act were not made available, and in view thereof, the Petitioner has made an Application under the Right to Information Act, which is pending. It is also submitted that due to the Diwali Vacation, there is further delay in the process.

7. I have considered the submissions made by Mr. Thorat and Mr. Kulkarni. Considering the facts and circumstances, in my view, the reasons

for seeking an extension of time to comply with the order dated 20th September 2025 are justified.

8. Therefore, as and by way of last chance, the time to comply with the order dated 20th September 2025 and the undertakings given by the Petitioner is extended by a period of six weeks from today. The extension is granted to the Petitioner on the expressed representation by the Petitioner that the Petitioner shall seek no further extension in the matter.

9. The Interim Application is disposed of.

10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR , J.]