IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10661 OF 2026

Shankar Nathuram Satkar and Another ...Petitioners

Vs.

Chakan Municipal Council through its
Chief Executive Officer and Another ...Respondents

Mr. Krantisinh Gadade, for the Petitioners.

Mr. P. P. Kakade, Addl. G.P. a/w. Mr. P. G. Sawant, AGP, for the Respondent - State.

MAMTA AMAR KALE Digitally signed by MAMTA AMAR KALE Date: 2026.08.24 19:10:51 +0530

CORAM : R. I. CHAGLA AND
FIRDOSH P. POONIWALLA, JJ.

DATED : 19th AUGUST, 2026

P.C.:-

1. The learned Counsel appearing for the Petitioners has tendered an Affidavit of Service dated 18th August 2026 as had been directed by this Court and which shows that the Respondents have been served. There is acknowledgment of Respondent No.1 on the Advocate's Notices dated 17th August 2026 and 18th August 2026 which is annexed to the Affidavit of Service. Inspite of service, none appears for Respondent No.1 - Chakan Municipal Council. The learned AGP appears for Respondent No.2 – State.

2. By this Petition, the Petitioners are seeking quashing and setting aside of the Notice dated 9th April 2026 issued by Respondent No.1

under Sections 52 and 53 of the Maharashtra Regional and Town Planning Act, 1966 (**"MRTP Act"**). Further, prayer is sought directing Respondent No.1, to consider and decide the Petitioners' Regularisation Application dated 11th August 2026.

3. The Petitioners are the owners of land described in paragraph No.3 of the Writ Petition, being Plot Nos.23, 24 and 25, on CTS No.2407, situated within the municipal limits of Respondent No.1.

4. The Petitioners had approached Respondent No.1 for obtaining permission for construction on the said land. Respondent No.1 had informed the Petitioners that the Development Plan of Chakan had not been sanctioned / approved and that permission could not be granted at that stage.

5. The Petitioners had commenced construction on the said land and, in respect of such construction, Respondent No.1 issued the impugned Notice dated 9th April 2026 under Sections 52, 53 and 54 of the MRTP Act, alleging that the construction was unauthorised.

6. Respondent No.1 issued further Notice dated 10th August 2026 calling upon the Petitioners to remain present in connection with the alleged unauthorised construction on the said land.

7. The Petitioners submitted Regularisation Application dated 11th August 2026 before Respondent No.1, which had annexed relevant documents and plans. The Application is pending before Respondent No.1.

8. It is the grievance of the Petitioners that, despite the Application for regularisation pending before Respondent No.1, they were orally directed to demolish the alleged unauthorised structure on the said land.

9. The Petitioners, being aggrieved by the impugned Notice, threatening coercive action on the part of Respondent No.1, have approached this Court in exercise of its writ jurisdiction.

10. The learned Counsel appearing for the Petitioners has submitted that the Regularisation Application filed by the Petitioners, under Section 44 of the MRTP Act, 1966, is required to be considered by Respondent No.1 prior to any coercive steps being taken in respect of the structure which has been constructed on the said land. He has referred to the provisions of Section 44 and 53 of the MRTP Act, 1966. Section 53(3) of the MRTP Act, 1966 provides that any person aggrieved by the Notice issued in respect of demolition of development of land, may, within the period specified in the notice and in the manner prescribed, apply for permission under Section 44 for retention on the land of any building or works or for the continuance of any use of the land, to which the notice relates, and pending the final determination or withdrawal of the application, the mere notice itself shall not affect the retention of buildings or works or the continuance of such use.

11. The learned Counsel for the Petitioners further relied upon the decision of this Court in **Ganesh Hanumant Gaikwad and Another Vs. State of Maharashtra through its Principal Secretary Urban Development Department and Others in Writ Petition No.17458 of 2025** wherein by an Order dated 22nd December 2025, this Court has, in a similar factual situation where an Application had been made by the Petitioner under Section 44 of the MRTP Act, 1966, had directed the Planning Authority to consider and decide the Application strictly in accordance with the law and in terms of the applicable provisions of the Building Rules and Regulations, and not to take any coercive steps in respect of the structure which has been constructed on the said land.

12. The learned Counsel for the Petitioner has also relied upon the decision of this Court in **Ekataa Commercial Center Pvt. Ltd. and Another Vs. Municipal Corporation of Greater Mumbai (MCGM) and Another in Writ Petition (L) No.22055 of 2023** wherein by an Order dated 28th August 2023, this Court had taken a similar view as in the above decision where the online Application of the Petitioner, under Section 44 of the MRTP Act, was pending, and had not been decided and disposed of, and the Executive Engineer, Building Proposal, was requested to decide the Application for regularisation at the earliest and, in any event, within six weeks from the date of Order.

13. The learned Counsel for the Petitioners has accordingly sought for a similar Order to be passed in the present case.

14. We have considered the submissions and noted that Respondent No.1 has failed to appear despite service, which is evident from the Affidavit of Service which has been tendered and taken on record.

15. In the present Petition, the Petitioners had filed an Application under Section 44 of the MRTP Act, 1966, on 11th August 2026. In spite of the said Application being filed, Respondent No.1, as stated by the Petitioners, threatened coercive action viz., demolition of structure on the said land.

16. Respondent No.1 is enjoined by the provisions of the MRTP Act viz., Section 53(3), read with Section 44, to consider the Application made under Section 44 prior to taking any coercive action, which includes demolition of structure which they claimed is unauthorised on the said land. It has been held by this Court in **Ganesh Hanumant Gaikwad (Supra)** by placing reliance upon an earlier decision of this Court in **Foresight Builders and Another Vs. The Municipal Corporation of Greater Mumbai and Others in Writ Petition (L) No.3443 of 2014 decided on 13th January 2015** that the concerned Authority is required to decide an Application under Section 44 of the MRTP Act, 1966 strictly in accordance with the law and in terms of the applicable provisions of the Building Rules and Regulations. In **Foresight Builders (Supra)**, this Court has held in

paragraph No.2 as under:

> *"It is well settled position in law that if a show cause notice is issued under Section 53 and Section 55 of the MRTP Act, it is open for the person to make an application for regularisation under Section 44 of the said Act. If such an application is filed, the Competent Authority will have to consider the application on merits and in accordance with law. Needless to state that during this period, action under Section 53(1) cannot be taken by the Corporation."*

17. From the above decision, it is clear that where Show Cause Notice has been issued under Sections 53 and 55 of the Act, it is open for the person to make an Application for regularisation under Section 44 of the MRTP Act, and when such Application is filed, the Competent Authority will have to consider the Application on merits and in accordance with the law. Further, an action under Section 53(1) of the MRTP Act cannot be taken by the Competent Authority during this period.

18. A similar view has also been taken by this Court in **Ekataa Commercial Center Pvt. Ltd. (Supra)**.

19. Upon perusal of the relevant provisions of the MRTP Act, 1966, as well as the aforesaid decisions passed by this Court, we are of the view that the Petitioners' Application, under Section 44 of the MRTP Act, 1966, is required to be heard and disposed of by Respondent No.1, on merits and in accordance with the terms of the applicable provisions of the Building Rules

and Regulations as well as strictly in accordance with the law.

20. Till then, no coercive action shall be taken by Respondent No.1 in respect of the structure built by the Petitioners on the said land.

21. We accordingly passed the following Order.

ORDER

1. Respondent No.1 is directed to decide the Application dated 11th August 2026 of the Petitioners under Section 44 of the MRTP Act, 1966, at the earliest, and, in any event, within a period of four weeks from uploading of this Order.

2. Till the aforesaid Application of the Petitioners is disposed of, no further action shall be taken pursuant to the impugned Notice dated 9th April 2026 issued by Respondent No.1 under Sections 52, 53 and 54 of the MRTP Act, 1966.

3. If the aforesaid Application is rejected for any reason, no action will be taken against the structure on Plot Nos.23, 24 and 25 on CTS No.2407, for a further period of two weeks from the said decision.

4. The Petition is disposed of in the above terms. However, there shall be no order as to costs.

[FIRDOSH P. POONIWALLA, J.] [R.I. CHAGLA, J.]