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In the Bombay High Court

Case No : Writ Petition No. 10426 of 2013

Satish D. Darekar APPELLANT

Vs

Pimpri Chinchwad Municipal Corporation RESPONDENT

Date of Decision : 20-02-2014

Acts Referred:

Constitution of India, 1950 — Article 226
Maharashtra Land Revenue Code, 1966 — Section 44
Maharashtra Regional and Town Planning Act, 1966 — Section 18, 47, 53, 53(1)

Citation : (2014) 3 ABR 429 : (2014) 5 MhLj 405

Hon'ble Judges : M.S. Sonak, J;Abhay Shreeniwas Oka, J

Bench : Division Bench

Advocate : S.S. Kulkarni, Advocate for the Appellant; A.A. Kumbhakoni, Senior Advocate i/b. G.H. Keluskar and V.S. Gokhale, AGP, Advocate for the Respondent

Final Decision : Dismissed

Judgement

A.S. Oka, J.—The Petitioner was served with a notice u/s 53(1) of Maharashtra Regional and Town Planning Act, 1966 (for short "MRTP Act") alleging that on the land bearing survey No. 51/3 of village Tathawade, Taluka Mulshi, District Pune, the Petitioner has carried out illegal and unauthorized construction consisting of ground plus four upper floors totally admeasuring 5200 square meters. It is alleged that the Petitioner has constructed a hotel. It is stated to be a RCC construction. The notice was issued by the Pimpri Chichwad Municipal Corporation which is a Planning Authority within the meaning of the MRTP Act. Writ Petition No. 7402 of 2013 was filed by the Petitioner for challenging the said notice and for other consequential reliefs. After considering the case of the Petitioner, a Division Bench of this Court by a Judgment and order dated 10th October 2013 upheld the legality and validity of the said notice u/s 53(1) of the said MRTP Act and declined to interfere in writ jurisdiction under Article 226 of the Constitution of India. In fact, the Division Bench even declined to continue the earlier ad interim relief and directed the 1st Respondent-Municipal Corporation to start demolition of the building and a period of four weeks was

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granted to the Petitioner to enable him to remove his belongings. As of today, the said order stands. We must note here that the learned counsel appearing for the Petitioner states that the Petitioner has applied for the review of the said judgment and order and the application is pending.

2. In the present Petition, it is pointed out that on 11th May 2004, the Additional Collector, Pune passed an order permitting conversion of survey No. 51/3 situated at Village Tathwade, District Pune for non-agricultural use. It is also pointed out that on 29th March 2004, the Assistant Director of Town Planning, Pune Division, Pune recommended the plan submitted by the Petitioner for approval. On 11th May 2004, the layout plan of survey No. 51/3 dividing the same into 12 plots plus amenity/commercial plots was sanctioned by competent authority. It is pointed out that on 5th November, 2012, the Petitioner submitted a revised development plan to the 1st Respondent-Municipal Corporation for its approval in respect of the redevelopment for the Hotel Satish Executive constructed by the Petitioner which is the subject-matter of the notice u/s 53(1) of the MRTP Act. On 13th December, 2012, the objections as regards the said application were communicated to the Petitioner. On 16th April 2013, the Petitioner allegedly cleared the objections and requested the Municipal Corporation to sanction the plan. By letter dated 20th July 2013, the Corporation communicated refusal to grant permission. On 31st October 2013, the Petitioner preferred an Appeal u/s 47 of the MRTP Act against the order dated 20th July 2013 refusing the building permission. It is alleged that the Appellate Authority was busy and therefore, the prayer for interim relief could not be heard. The only substantive prayer in this petition is prayer clause ''b'', which reads thus.

b] Be pleased to direct Respondent Nos. 1 to 4 from taking any action upon the notice at Exhibit "D" issued u/S. 53 dt. 17/7/2013 till appeal and stay application at Exhibit "J" is heard and until then the execution, operation and/or effect of the notice u/S. 53 be kindly stayed and further stay be continued for further period of 4 week if any adverse order is passed in the appeal and said period of 4 weeks be commenced from communitarian of the said order.

3. The learned counsel appearing for the Petitioner invited our attention to the letter dated 28th October, 2013, addressed by the Petitioner to the Commissioner of 1st Respondent-Municipal Corporation in which it is stated that there is a sanctioned plan dated 29th March, 2004, by which the Assistant Director of Town Planning, Pune Division, Pune has sanctioned construction of an area admeasuring 1285.24 Sq. meters. (Ground + 4 Floors) and that the Gram Panchayat has sanctioned construction of an area admeasuring 1638.89 Sq. meters. (Ground + 4 Floors). On instructions, he states that thus a total construction admeasuring 2924.51 Sq. meters has been carried out by the Petitioner. He submitted that the statement made in the notice dated 17th July 2013 u/s 53(1) of the MRTP Act that the area of the construction is 5200 Sq. meters is factually incorrect. He submitted that under the Right to Information Act, 2005 certain information was obtained which shows that as per the entry

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made in the record of the erstwhile Village Panchayat, the construction carried out by the Petitioner is authorized. He invited our attention to the various affidavits filed on record. In the affidavit dated 6th February 2014, reliance is placed on a report of a committee headed by the Hon''ble Revenue Minister Shri. Balasaheb Thorat and recommendations of the said Committee submitted to the State Government which recommends that all illegal constructions within the limits of 1st Respondent-Municipal Corporation constructed up to 31st January 2013 should be regularized as provided in the mechanism suggested in the report. He submitted that the said report is under active consideration of the State Government and no final decision has been taken on the report till today. He also relied upon another additional affidavit dated 10th February 2014 in which it is pointed out that the clearance to the proposal for regularization of all the unauthorized constructions made up to 31st January, 2013 is likely to be given shortly. He has relied upon another affidavit filed on record relying upon information obtained under the Right to Information Act, which according to him shows that since April, 2013, the revised building plans along with a revised commencement certificate in respect of the said land are kept ready by the 1st Respondent. However, the same have not been signed by the concerned officers. He pointed out that the substantive Appeal u/s 47 of MRTP Act is pending before the State Government. He urged that if the pending Appeal before the State is allowed, the offending structure will be regularized and therefore, pending the final disposal of the Appeal, the structure may be protected. He reiterated that the construction carried out by the Petitioner of his Hotel is only to the extent of 2924.51 Sq. meters as permitted by the Assistant Director of Town Planning in the year 2004 as well as the subsequent permission granted by the erstwhile Village Panchayat in the year 2007. He urged that in all probability, the structure will be regularized. He states that if ultimately the Appeal is dismissed, the Petitioner is willing to remove the said structure. He, therefore, submitted that a limited protection be granted to the Petitioner till the disposal of the Appeal. He submitted that in any event, the State is likely to take a policy decision under which said construction is likely to be protected. He submitted that even if the Municipal Corporation regularizes the structure, the Petitioner will have to pay the necessary amount. He submitted that the proposal for development permission submitted by the Petitioner which was rejected by a communication dated 20th July, 2013, not only covers the building subject-matter of the notice dated 17th July 2013, but also the other structures which are subject-matter of companion Writ Petition No. 9263 of 2013.

4. We have heard the learned senior counsel appearing for the Municipal Corporation, who invited our attention to the fact that the legality and validity of the notice u/s 53(1) of the MRTP Act has been upheld by this Court. He also invited our attention to the affidavit in reply filed by the Dy-City Engineer in the earlier Writ Petition No. 7402 of 2013 and the annexures thereto.

5. We have considered the submissions. Firstly, it must be noted that in the notice dated 17th July 2013 under the MRTP Act, which was challenged by the

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Petitioner by filing Writ Petition No. 7402 of 2013, the specific allegation is that the Petitioner has carried out unauthorized construction of ground + 4 Floors admeasuring 5200 square meters. We have perused the memorandum of Writ Petition No. 7402 of 2013. Careful scrutiny of the memorandum of the said Writ Petition shows that the Petitioner relied upon only one permission namely the permission dated 23rd July 2007 granted by the erstwhile Village Panchayat. We must note here that during the course of submissions, the learned counsel appearing for the Petitioner, on instructions, stated that the said permission granted on 23rd July 2007 is in relation to area of 2924.51 Sq. meters. The village Thathawade was included within the limits of the first Respondent Municipal Corporation in the year 2010. In the earlier Writ Petition, the Petitioner has relied upon the alleged building permission granted under the provisions of Section 44 of the Maharashtra Land Revenue Code, 1966 and u/s 18 of the MRTP Act. It is pertinent to note that in the entire Petition, the Petitioner has not disputed the case made out in the impugned notice that the area of the construction carried out by him was 5200 Sq. meters. Careful perusal of the judgment and order dated 10th October 2013 passed by this Court shows that such contention was not raised before the Division Bench.

6. It is not disputed by the Petitioner that even in 2004, Section 18 of the MRTP Act was applicable to the area in which the said land on which the construction is carried out. The reason being that the area was covered by a Regional Plan. Sub-sections (1) and (2) section 18 of the MRTP reads thus:

18. Restriction on change of users of land or development thereof: (1) No person shall on or [after the publication of the notice that the draft Regional plan has been prepared or the draft Regional plan has been approved], institute or change the use of any land for any purpose other than agriculture, or carry out any development in respect of any land without the previous permission of the Municipal Corporation or Municipal Council, within whose area the land is situate, and elsewhere, of the Collector.

(2) Notwithstanding anything contained in any law for the time being in force, the permission referred, to in sub-section (1) shall not be granted otherwise than in conformity with the provisions of the draft or final Regional plan.

Admittedly, the said land was included within the limits of the Municipal Corporation in the year 2010. Sub-section (1) of Section 18 of the MRTP Act mandates that no development can be carried out on such a land without the previous permission of the Collector. Hence, till the year 2010, no construction could be carried out on the said land without permission of the Collector.

7. The Petitioner seems to be fully aware of the requirement of Section 18 of the MRTP Act and that is the reason why in the earlier Petition, repeatedly the Petitioner relied upon building permission allegedly granted u/s 18 of the MRTP Act. Such averments are found in paragraphs 3 and 12 of the earlier Petition. Thus, this position which emerges is that neither in 2004 nor in 2007, the

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Petitioner could have carried out any construction without the previous permission of the Collector and therefore, notwithstanding all other permissions relied upon by the Petitioner, it is obvious that the entire structure subject matter of the notice dated 17th July 2013 is completely illegal and unauthorized. Admittedly, the Petitioner did not obtain a permission from the Collector.

8. As we have narrated earlier, in the earlier Writ Petition, the Petitioner has relied upon only the permission granted by the Village Panchayat on 23rd July 2007. The learned counsel appearing for the Petitioner on instructions now states that the said permission relates to the constructed area of 2924.51 Sq. Meters. As the Petitioner knew that the entire structure is unauthorized, obviously he applied on 5th November, 2012, for grant of permission to the first Respondent-Municipal Corporation. It will be interesting to note what the Petitioner represented in his letter dated 28th October, 2013, addressed to the Commissioner of the Municipal Corporation. He has stated thus;

In view of this position, your attention is drawn to sanctioned plan dated 29/3/2004. The Asstt. Director of Town Planning, Pune Division, Pune has sanctioned an area admeasuring 1285.24 Sq.Mtrs. (Ground + 4 Floors) Whereas the Gram Panchayat, Thathawade has sanctioned an area admeasuring 1638.89 Sq. Mtrs. (Ground + 4 Floors) In view of these building permissions, I have constructed total area admeasuring 2924.51 Sq. Mtrs. (Ground + 4 Floors) I am enclosing herewith the certificate issued by Govt, approved Valuer and Architect, Mr. Harshad Reparel, showing the total area construction caused floor wise area as per the above referred sanction plans.

Whereas your notice u/S. 53, MRTP, 1966 dated 17/7/2013 refers 5200 Sq.Mtrs. Unauthorized construction of the hotel as described by boundaries.

9. Thus the Petitioner represented that on 29th March 2004, the Assistant Director of Town Planning has granted a permission to construct to the extent of 1285.24 Sq. Meters. In the present Petition, there is no assertion made that the Assistant Director of Town Planning granted permission on 29th March 2004, but it is specifically stated that he recommended the plan submitted by the Petitioner for approval. Admittedly, the approval to the said plan was never granted by the Collector. Though in the aforesaid letter, the Petitioner has made a representation to the Municipal Corporation that the Gram Panchayat had granted a permission to construct only to the extent of 1638.89 Sq. meters, now the Petitioner contends that that the Gram Panchayat had granted permission to construct a structure to the extent of 2924.51 Sq. Meters. In view of Section 18 of the MRTP Act, only the Collector could have granted permission till the said land came in to the limits of the first Respondent Municipal Corporation.

10. After the service of the said notice dated 17th July 2013, on 20th July, 2013, the Municipal Corporation rejected the Application for development permission made by the Petitioner. The earlier Writ Petition is affirmed on 5th August, 2013. Perusal of the averments made in the earlier Writ Petition shows that in

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paragraph 5, the Petitioner has referred to a letter dated 23rd July, 2013, addressed by him to the Municipal Corporation and has made a grievance that no decision has been taken by the Municipal Corporation on the plan. In the entire Petition, the Petitioner has not disclosed that on 20th July, 2013, a communication was issued by the Municipal Corporation rejecting the prayer for grant of development permission. It will be interesting to note the prayers made in the earlier Petition. The prayer clauses ''A'' & ''B'' of the earlier Petition read thus.

[A] That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India, 1950, quashing and setting aside the notice issued u/S. 53 of the Maharashtra Regional & Town Planning Act, 1966 by Respondent No. 3, for and on behalf of the Respondent Nos. 1 and 2 bearing No. Tha/BP/Tathawade/12/2013, dated 17th July 2013.

[B] That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India, 1950, directing the Respondent Nos. 1 and 2 to consider and forthwith give the sanction to the Building Plan submitted by the Petitioner for making construction on the property namely Survey No. 51/3/1 Tathawade, Taluka Mulshi, District Pune, within such time as this Honourable Court may deem fit.

(Emphasis added)

11. The perusal of the judgment and order in the earlier Petition shows that in the first paragraph, the Division Bench has noted the said prayers. In paragraph 4, a submission made by the learned counsel appearing for the Petitioner is recorded that the provisions of Section 18 of the MRTP Act would be applicable. We have already noted that the Section 18 of the MRTP Act empowers only the Collector to grant development permission, when a property covered by a regional plan is not situated in Municipal limits. In paragraph 6, the Division Bench held that there was nothing illegal in the impugned notice u/s 53(1) of the MRTP Act. In paragraph 7, the Division Bench observed that considering the conduct of the Petitioner, it was not a fit case to exercise writ jurisdiction under Article 226 of the Constitution of India. In fact, this Court declined to grant extension of ad-interim relief granted earlier and permitted only four weeks time to the Petitioner to remove his belongings from the structure. Thus, the prayer specifically made in the said petition for a direction to the first Respondent to grant permission stands rejected.

12. Whether construction carried out by the Petitioner is to the extent of 5200 Sq. Meters or of an area less than that, the fact remains that the entire construction is completely illegal as a permission in accordance with Section 18 of the MRTP Act was not obtained. Apart from this, we must note here that as indicated above, the prayer made in the earlier Writ Petition for a direction to

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grant permission was not granted.

13. The Petitioner was himself conscious of the fact what he has done was completely illegal and that is the reason why he applied to the Municipal Corporation for grant of a permission in November 2012. It is true that under sub-section (3) of Section 53 of the MRTP Act, the Petitioner could have applied for permission u/s 44 for retention of the building. The fact remains that the Petitioner did not apply for retention. Prior to the notice, he had already applied for permission thereby accepting the fact that he had carried out the illegal construction without the permission, in any case, we are dealing with a Petitioner whose conduct is already deprecated by this Court in the earlier Petition. Even going by the case made out by the Petitioner, a very large illegal construction to the extent of 2924.51 sq. meters has been brazenly made by the Petitioner.

14. At this stage, before dealing with the report of the Committee relied upon by the Petitioner, we must make a reference to the judgment and order dated 4th October, 2013 passed by a Division Bench of this Court in Public Interest Litigation No. 207 of 2010. Paragraph 2 of the said order reads thus:

2. The grievance which has been highlighted in these proceedings, which have been filed in the public interest, reveals an alarming state of affairs within the jurisdiction of Pimpri-Chinchwad Municipal Corporation (''PCMC''). Unauthorized constructions have been made brazenly without building permissions. Even according to the PCMC, there are over 66,000 unauthorized constructions. The PCMC has been lax in enforcing its obligations as a planning authority apart from issuing notices and lodging FIRs in certain cases. The Maharashtra Pollution Control Board (''MPCB'') which is vested with statutory powers of enforcing the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981, has also stood by and besides issuing notices, failed to exercise its statutory powers for enforcing compliance with law.

(Emphasis added)

Paragraph 4 of the said judgment and order notes the stand taken by the Pimpri-Chinchwad Municipal Corporation that a proposal has been submitted to the State Government to regularize all illegal constructions made prior to 31 st March 2011. It also records that earlier, a proposal was submitted to the Government for regularization of all unauthorized constructions prior to 31st March, 2012. What is material is paragraph 9 of the said judgment, which reads thus:

9. The material which has been placed on the record leaves no manner of doubt that there is a complete breakdown of governance in the enforcement of urban planning legislation within the jurisdiction of PCMC. The PCMC is a planning authority within the meaning of the Maharashtra Regional Town Planning Act, 1966 and is duty bound to enforce those provisions. As many as 66, 324 structures are found to be unauthorized. Even after issuing notices of demolition, the PCMC has taken action only against 225 structures. The illegalities are compounded by a proposal for regularization en masse. This is a virtual negation

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of the rule of law. Learned counsel for PCMC states that PCMC lacks adequate infrastructure and is dependent on the Police authorities to support its enforcement measures. What is disturbing is the complete absence of administrative will on the part of the authorities of the State including the planning authority to take cognizance of the serious dimensions of the unauthorized structures within the limits of PCMC. PCMC has compounded the illegalities by now proposing to regularize initially all structures which had come up prior to 31 March, 2011 and subsequently all structures which have come up prior to 31 March, 2012. The consequence of these proposals does not require any stretch of imagination to appreciate. What the PCMC has proposed to do in fact acts as an incentive for those who carry out unauthorized constructions, since the violaters of the law can be sanguine in that belief that their structures will not be demolished and in fact would be tolerated at a future date. We emphatically disapprove of the conduct and the decisions of the PCMC and hold the Commissioner of PCMC personally responsible for taking immediate steps and stringent action against unauthorized constructions including those which form the subject matter of the PIL before this Court.

(Emphasis added)

15. Thereafter, in paragraph 10, the Division Bench issued following directions:

10. We direct, in consequence, the Commissioner of Pimpri-Chinchwad Municipal Corporation to take steps forthwith against all the unauthorized structures to which a reference has been made in the affidavit-in-reply of the PCMC in accordance with law. The Commissioner of Police shall render all required assistance.

16. Thus this Court strongly disapproved the proposal submitted by the first Respondent Municipal Corporation for regularization of thousands of illegal and unauthorized constructions in the city of Pimpri-Chinchwad. At this stage, it will be necessary to a make reference to a recent decision of the Apex Court in the case of Dipak Kumar Mukherjee Vs. Kolkata Municipal Corporation and Others, . In paragraph 2 of the said decision, the Apex Court has observed thus:

2. In the last four decades, the menace of illegal and unauthorized constructions of buildings and other structures in different parts of the country has acquired monstrous proportion. This Court has repeatedly emphasized the importance of planned development of the cities and either approved the orders passed by the High Court or itself gave directions for demolition of illegal constructions as in Shri K. Ramadas Shenoy Vs. The Chief Officers, Town Municipal Council, Udipi and Others, , Virender Gaur and Others Vs. State of Haryana and Others, Pleasant Stay Hotel and Another Vs. Palani Hills Conservation Council and Others, , Cantonment Board, Jabalpur and Others Vs. S.N. Awasthi and Others, , Pratibha Co-operative Housing Society Ltd. and another Vs. State of Maharashtra and others, , Dr. G.N. Khajuria and others Vs. Delhi Development Authority and others, , Manju Bhatia (Mrs) and Another Vs. New Delhi Municipal Council and

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Another, , M.I. Builders Pvt. Ltd. Vs. Radhey Shyam Sahu and Others, , Friends Colony Development Committee Vs. State of Orissa and Others, Shanti Sports Club and Another Vs. Union of India (UOI) and Others, and Priyanka Estates International Pvt. Ltd. and Others Vs. State of Assam and Others,

Thereafter, the Apex Court considered its earlier decisions and in paragraph 29 it was held thus:

29. It must be remembered that while preparing master plans/zonal plans, the Planning Authority takes into consideration the prospectus of future development and accordingly provides for basic amenities like water and electricity lines, drainage, sewerage, etc. Unauthorized construction of buildings not only destroys the concept of planned development which is beneficial to the public but also places unbearable burden on the basic amenities and facilities provided by the public authorities. At times, construction of such buildings becomes hazardous for the public and creates traffic congestion. Therefore, it is imperative for the concerned public authorities not only to demolish such construction but also impose adequate penalty on the wrongdoer.

(Emphasis added)

The Apex Court laid emphasis on the fact that unauthorized construction of the buildings not only destroys the concept of planned development which is beneficial to the public, but it places unbearable burden on the basic amenities provided by the public Authorities. Therefore, the Apex Court observed that it is imperative for the public authorities not only to demolish such construction but also impose adequate penalty on the wrongdoer. We must note here that the order in Public Interest Litigation takes a note in fact at that stage about 66,000 structures within the limits of the first Respondent-Municipal Corporation were found to be unauthorized.

17. In this context, now we must deal with the submissions made by the learned counsel appearing for the Petitioner on the basis of a report submitted by a Committee appointed by the State Government. Shockingly, in the teeth of the observations made by the Division Bench of this Court in Public Interest Litigation No. 207 of 2010, which we have quoted above, the Committee has recommended that all illegal structures within the limits of the first Respondent Municipal Corporation made up to 31st January, 2013 shall be regularized by following the procedure laid down in the recommendations. We must note here that the order in PIL relates to the same Municipal Corporation and the Committee appointed by the State Government which is stated to be headed by a Hon''ble Minister has made such recommendations. Taking a conservative estimate of the illegal structures in existence in the city as 66,000, no debate is required to observe that such large scale unauthorized constructions have completely disturbed the concept of planned development of the city for which Municipal Corporation has been constituted. Such large number of unauthorized structures will place unbearable burden on the basic amenities. The citizens who

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are residing in the lawfully constructed buildings and structures will be thus deprived of their legitimate right to effectively enjoy the beneficial amenities as 66,000 illegal constructions will place unbearable burden on the public amenities provided in the city for the benefit of law abiding citizens. Fortunately, it is pointed out that as on today, the State Government has not taken any final decision on the recommendations of the Committee. While taking final decision, the State Government cannot overlook the law laid down by the Apex Court not only in the case of Dipak Kumar Mukherjee Vs. Kolkata Municipal Corporation and Others, but also in several other cases. While considering the said proposal, the State Government will be under an obligation to consider the findings recorded by the Division Bench of this Court in P.I.L. No. 207 of 2010. We have already noted the observations made by the Division Bench projecting the effect of protecting such large number of illegal structures. From what we gather from paragraph ''9'' of the order of the Division Bench is that this Court was conscious of the fact that once a cut-off date is fixed for tolerating illegal constructions, in future, there will be certainly extensions granted to the said cut-off date. The Division Bench observed that such policy encourages the violators of law and gives confidence to the violators of law that illegal structures would be tolerated even in future. This Court has emphatically disapproved the proposal submitted by the Municipal Corporation. The disapproval expressed by this Court is on the proposal of the Municipal Corporation to regularize all unauthorized constructions. The laws regarding town planning cannot be defeated by tolerating such large number of unauthorized structures. Such toleration of structures is nothing but encouraging the wrongdoers who treat the law with contempt. The State cannot encourage illegalities. The State cannot discourage those who abide by law by obtaining permissions before making construction. The State Government is a party Respondent to this Petition. The State Government will have to consider all these aspects before any final decision is taken. We hope and trust that the State Government will not go against the law laid down by the Apex Court and this Court.

18. Now coming to the facts of the case, the Petitioner''s conduct has already been deprecated in the earlier Petition. After considering the submissions made by the Petitioner, we find that the construction of a very large area for commercial use has been made without obtaining prior permission in accordance with law.

19. Knowing fully well that what he was doing was illegal, the Petitioner has carried out illegal construction. Few years after carrying out construction, in the year 2012, the Petitioner made an attempt to obtain a permission. That attempt has failed but the Appeal against the order of rejection has been pending.

20. Considering the conduct of the Petitioner and considering the fact that patently illegal construction of a very large building for running a hotel is carried out by the Petitioner, this is not a case where in writ jurisdiction, any relief can be granted to the Petitioner. In fact, the learned counsel appearing for the

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Municipal Corporation is justified in contending that the rejection of prayer clause ''B'' in the earlier Petition may come in the way of the Petitioner prosecuting the Appeal preferred by him on merits. However, it is for the Appellate Authority to consider the effect of the order passed in the earlier writ Petition filed by the petitioner.

21. At this stage, the learned counsel appearing for the Petitioner states that if the Petitioner pulls down the construction or his construction is demolished, in Appeal, the State Government will not consider the question of grant of a permission. There is no basis for this apprehension. As the notice u/s 53 of the MRTP Act has become final, the Municipal Corporation will have to demolish the structure. Even after demolition of the structure, if a permission is granted by the State Government in accordance with law, the Petitioner can re-erect his structure.

22. The Writ Petition is, accordingly, rejected. Considering the conduct of the Petitioner, we direct the Petitioner to pay costs quantified at Rs. 50,000/-. The cost shall be paid to the State Government within a period of two months from today. We make it clear that the State Government will have to use the amount of costs for some welfare measures and not for rehabilitating those who have been benefited by the unauthorized and illegal construction of the structures. The learned counsel appearing for the Petitioner seeks continuation of ad-interim relief granted by this Court. Even in the earlier Petition, the said prayer was rejected. Therefore, we reject the prayer for continuation of ad-interim relief. However, we extend the time granted under earlier order dated 10th October 2013 to the Petitioner to remove his belongings by a period of four weeks from today.

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