



IN THE [REDACTED] OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

[REDACTED]

1. [REDACTED],  
Age - 49 Years, Occ. Business
2. **VILAS YASHWANT RANADE**,  
Adult, Occ. Business

...

~ VERSUS ~

1. [REDACTED],  
[REDACTED]  
[Summons to be served on [REDACTED]]
2. [REDACTED],  
[REDACTED]
3. [REDACTED],  
[Summons to be served on the [REDACTED] Govt.  
Pleader]

...

ALONG WITH

[REDACTED]

[REDACTED],

Age: 52 years Occupation: Business  
Having His Address At:

[REDACTED], [REDACTED]  
[REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],

Through Its [REDACTED]  
[REDACTED]

Having Its Office At:

[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]]

2. T [REDACTED]  
[REDACTED],

Through Its [REDACTED]

Having Its Office At:

[REDACTED], [REDACTED] [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for [REDACTED]  
[REDACTED]

... [REDACTED]

ALONG WITH

[REDACTED]

[REDACTED],  
Age: 47 years Occupation: Business  
Address: [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]

2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for [REDACTED]  
[REDACTED]

... [REDACTED]

ALONG WITH

[REDACTED]

[REDACTED],  
Adult, 76 Occ. Business  
R/at : 110, [REDACTED]  
[REDACTED], Opp. Palkar School,  
[REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]

2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED]  
[REDACTED], [REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for [REDACTED]  
[REDACTED]

... [REDACTED]

ALONG WITH

[REDACTED]

[REDACTED],  
Adult, Age 40 Yrs. Occ. [REDACTED],  
[REDACTED], [REDACTED] [REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]

2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED] [REDACTED]  
[REDACTED], [REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for [REDACTED]  
[REDACTED]

... [REDACTED]

ALONG WITH  
INTERIM APPLICATION NO. 80 OF [REDACTED]  
IN

[REDACTED]

T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At: [REDACTED],  
[REDACTED], [REDACTED],  
[REDACTED]

... [REDACTED]

~ IN THE MATTER BETWEEN ~

[REDACTED],  
Adult, Age 40 Yrs. Occ. [REDACTED],  
[REDACTED], [REDACTED], [REDACTED]  
[REDACTED], [REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]
2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED], [REDACTED]  
[REDACTED], [REDACTED]

... [REDACTED]

ALONG WITH

[REDACTED]

[REDACTED],  
Adult, Occ. Business  
R/at: [REDACTED]  
[REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]]

2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED] [REDACTED]  
[REDACTED], [REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for [REDACTED]  
[REDACTED]

... [REDACTED]

ALONG WITH  
INTERIM APPLICATION NO. 83 OF [REDACTED]

IN

[REDACTED]

T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At: [REDACTED],  
[REDACTED],

... [REDACTED]

~ IN THE MATTER BETWEEN ~

[REDACTED],  
Adult, Occ. Business  
R/at: [REDACTED]  
[REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], 400001,  
[REDACTED]

2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED]  
[REDACTED],

... [REDACTED]

ALONG WITH



[REDACTED]

[REDACTED],  
Adult, Age 47 Yrs. Occ. Business,  
R/at- Pancham Nivas, P.No. 113, [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]

2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED] [REDACTED]  
[REDACTED], [REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for [REDACTED]  
[REDACTED]

... [REDACTED]

ALONG WITH

[REDACTED]

[REDACTED]  
Adult, Age 53 Yrs. [REDACTED]  
[REDACTED] [REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]
- [Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]
2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED] [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED]
- [Summons to be served on t [REDACTED]  
[REDACTED] appearing for [REDACTED]  
[REDACTED]

... [REDACTED]

ALONG WITH

[REDACTED]

[REDACTED],  
Adult, Age 50 Yrs. Occ. Business  
R/at: Shubham', [REDACTED]  
[REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]

2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED]  
[REDACTED], [REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for [REDACTED]  
[REDACTED]

... [REDACTED]

ALONG WITH  
INTERIM APPLICATION NO. 86 OF [REDACTED]  
IN

[REDACTED]

T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At: [REDACTED],  
[REDACTED],  
[REDACTED]

... [REDACTED]

~ IN THE MATTER BETWEEN ~

[REDACTED],  
Adult, Age 50 Yrs. Occ. Business  
R/at: Shubham', [REDACTED]  
[REDACTED] [REDACTED] [REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]
2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED] [REDACTED]  
[REDACTED], [REDACTED] [REDACTED]

... [REDACTED]

ALONG WITH

[REDACTED]. [REDACTED]

[REDACTED],  
Adult, Age 53 Yrs. Occ. [REDACTED],  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 411051

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]]

2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED] [REDACTED]  
[REDACTED], [REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for [REDACTED]  
[REDACTED]

... [REDACTED]

ALONG WITH  
INTERIM APPLICATION NO. 82 OF [REDACTED]

IN

[REDACTED]. [REDACTED]

T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At: [REDACTED],  
[REDACTED],

... [REDACTED]

~ IN THE MATTER BETWEEN ~

[REDACTED],  
Age 53 Yrs. Occ. [REDACTED],  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 411051

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,

2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED], [REDACTED]  
[REDACTED], [REDACTED]

... [REDACTED]

ALONG WITH

[REDACTED]. [REDACTED]

[REDACTED],  
Age : 33 Yrs.  
R/at : [REDACTED]  
[REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED] 400001,  
[REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]

2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED] [REDACTED]  
[REDACTED], [REDACTED]

[Summons to be served on t [REDACTED]  
[REDACTED] appearing for [REDACTED]  
[REDACTED]

... [REDACTED]

ALONG WITH

[REDACTED]. [REDACTED]

[REDACTED]  
[REDACTED],  
Adult, Age 51 Yrs. Occ. Business,  
[REDACTED], [REDACTED]  
[REDACTED], [REDACTED]  
[REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]
- [Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]]
2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED]  
[REDACTED], [REDACTED]
- [Summons to be served on t [REDACTED]  
[REDACTED] appearing for [REDACTED]  
[REDACTED]

... [REDACTED]



ALONG WITH  
INTERIM APPLICATION NO. 84 OF [REDACTED]  
IN

[REDACTED]. [REDACTED]

T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At: [REDACTED],  
[REDACTED],  
[REDACTED]

... [REDACTED]

~ IN THE MATTER BETWEEN ~

[REDACTED]  
[REDACTED],  
Age 51 Yrs. Occ. Business,  
[REDACTED], [REDACTED]  
[REDACTED], [REDACTED], [REDACTED]  
[REDACTED]

... [REDACTED]

~ VERSUS ~

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]
2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED] [REDACTED]

[REDACTED], [REDACTED] ... [REDACTED]

**ALONG WITH**

[REDACTED]

[REDACTED],  
Adult, Age 61 Yrs. Occ. Business,  
[REDACTED], [REDACTED], [REDACTED],  
[REDACTED], Opp.  
Karve Statue, [REDACTED], [REDACTED] 411038 ... [REDACTED]

**~ VERSUS ~**

1. [REDACTED],  
Through Its [REDACTED]  
[REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED],  
[REDACTED], [REDACTED] 400001,  
[REDACTED]  
[Summons to be served on t [REDACTED]  
[REDACTED] appearing for  
[REDACTED] under Order  
XXVII Rule 4 of t [REDACTED] Code of Civil  
Procedure, [REDACTED]
2. T [REDACTED]  
[REDACTED],  
Through Its [REDACTED]  
Having Its Office At:  
[REDACTED], [REDACTED] [REDACTED]  
[REDACTED], [REDACTED]  
[Summons to be served on t [REDACTED] Learned

Advocate appearing for \_\_\_\_\_  
\_\_\_\_\_  
3. \_\_\_\_\_,  
[Summons to be served on t\_\_\_\_\_ Govt.  
Pleader] ... \_\_\_\_\_

**APPEARANCES**

FOR \_\_\_\_\_ Senior  
IN ALL WRIT \_\_\_\_\_ S \_\_\_\_\_ Advocate, with \_\_\_\_\_  
& \_\_\_\_\_  
FOR \_\_\_\_\_ NO. \_\_\_\_\_  
1 AND 2 IN ALL WRIT  
\_\_\_\_\_ S  
FOR T \_\_\_\_\_ - \_\_\_\_\_  
\_\_\_\_\_ IN ALL WRIT  
\_\_\_\_\_ S

\_\_\_\_\_ : \_\_\_\_\_ &  
\_\_\_\_\_, JJ.

RESERVED ON : \_\_\_\_\_

PRONOUNCED ON : \_\_\_\_\_

**JUDGMENT (Per MS Sonak J):-**

1. \_\_\_\_\_ard learned counsel for t\_\_\_\_\_ parties.
2. Rule. T\_\_\_\_\_ Rule is made returnable immediately at t\_\_\_\_\_ request  
of and with t\_\_\_\_\_ consent of t\_\_\_\_\_ learned counsel for t\_\_\_\_\_ parties.

3. [REDACTED] learned senior advocate argued these matters along with [REDACTED] on behalf of [REDACTED] in all these [REDACTED]s. [REDACTED] argued these matters on behalf of the [REDACTED] (“[REDACTED]”) in all these [REDACTED]s.

4. [REDACTED] requested that [REDACTED] be taken up as the lead [REDACTED] because the legal issues raised in this [REDACTED] were common to the remaining [REDACTED]s in this batch. [REDACTED] submitted that there could be some minor differences in the fact position in each of these [REDACTED]s. If necessary, [REDACTED] would make submissions on such factual aspects separately in each of the [REDACTED]s. [REDACTED] learned counsel for the [REDACTED], handed in a chart showing the factual differences in each of these [REDACTED]s.

5. [REDACTED] had constructed structures in the [REDACTED] on the banks of the [REDACTED] in [REDACTED]. Barring one of the structures that was used for residential purposes, the rest of the structures were used for commercial purposes like [REDACTED]s, wedding venues, [REDACTED], [REDACTED]s, [REDACTED], etc. [REDACTED] put up these structures and exploited them commercially without obtaining any permission from any of the [REDACTED] in utter defiance of the law. In doing so, [REDACTED] paid little heed to the fact that they had brazenly constructed such illegal structures in a [REDACTED] and a [REDACTED], which was an [REDACTED] crying for protection from such violations. Since no permissions were applied and obtained, [REDACTED] did not comply with any municipal or planning regulations. All this was done with impunity because [REDACTED] were aware that no permissions could be legitimately obtained to construct such structures in this [REDACTED]. The

relied upon the usual apathy of and planning to initiate immediate action and perhaps protection of the powers that be to see that no action is initiated.

6. After some vigilant lodged complaints and proceedings, the issued notices for the removal of all these illegal structures put up by. Before such notices were issued, were given the opportunity to show cause, lest complain of the violation of the principles of natural justice. Due legal procedures were followed. Based upon the final demolition notices, most of the structures were removed by the in strict accordance with the law. Undeterred, most of, with impunity, reconstructed the structures and recommenced exploiting them commercially, again without bothering to obtain any permissions or abiding by the rules and regulations.

7. Once again, the, following all legal procedures and complying with the principles of natural justice, has issued the impugned notices under Sections 53 and 54 of the Regional and Town Planning Act, 1966 ("Act") for the demolition of the structures reconstructed by in the on the banks of the in.

8. Therefore, have instituted these to challenge the same or rather urge that have an indefeasible right to apply for regularisation. insist that until they apply (by citing some imaginary difficulty, none of have even bothered to apply for regularisation) and during the period when such applications (as and when made) are

under consideration, the impugned demolition/removal notices should not be acted upon.

9. Some of [REDACTED] managed to obtain interim reliefs by suppressing the material facts about the earlier demolitions and the brazen reconstructions without obtaining any permissions from any [REDACTED] in a [REDACTED] that did not even permit these types of constructions. [REDACTED] instituted the [REDACTED] several months after the demolition of his [REDACTED]. Without any interim relief and without bothering to obtain any permissions from any [REDACTED], [REDACTED] reconstructed the [REDACTED] after the institution of the [REDACTED].

10. In all these [REDACTED]s, despite the gross facts establishing how most of [REDACTED] have, with impunity, rebuilt illegal structures that were earlier demolished after following all legal procedures, [REDACTED] invoke the extraordinary, equitable, and discretionary jurisdiction of [REDACTED] and insist on applying the law as they (or their lawyers) choose to interpret it to protect these patently illegal structures.

11. [REDACTED]' interpretation or understanding of the legal position is that it is perfectly alright to construct or reconstruct illegally and brazenly in a [REDACTED] or a [REDACTED]. If and when such illegalities are discovered, and demolitions are ordered, [REDACTED] have some indefeasible right to apply for regularisation. Furthermore, until such regularisation applications are decided, there should be no demolitions of the brazenly illegal structures through which [REDACTED] undertake commercial activities.

12. Further, [redacted] have not even applied for regularisation, citing some difficulties and ambiguities in the applicable [redacted] and claiming that some clarification is pending with the [redacted]. Therefore, now the insistence is that [redacted] should direct the [redacted] to clarify or await amendment of the [redacted] rules and regulations. Once all this is done, [redacted] should grant [redacted] some time to apply for regularisation. Pending consideration of such regularisation applications, if and when made by [redacted], [redacted] must protect the [redacted] brazenly illegal structures constructed or reconstructed by [redacted] so that they can continue to exploit them commercially during all this time. This was the main thrust of the oral and written submissions on behalf of [redacted].

13. In the lead [redacted], [redacted] initially argued that [redacted] had reconstructed a [redacted] after the [redacted] demolished it, based upon a deemed permission under Sections 44 and 45 of the [redacted] Act, 1949. However, later on, this point was not pressed, and arguments were advanced on the premise that such reconstruction may not have been authorised.

14. [redacted] contended that on a conjoint reading of the provisions of Sections 52 and 53 of the [redacted] Act, [redacted] who may have put up constructions without prior building permissions from the [redacted] have a statutory right to seek retention or regularisation of such structures, provided of course, such structures otherwise comply with the [redacted] rules and regulations governing the putting up of such structures/ constructions.

15. [REDACTED] submitted that statutory provisions in Sections 52 and 53 of the [REDACTED] Act that permit the making of requests for retention or regularisation constitute an exception to the general rule that no buildings/ structures/ constructions can be put up without prior permissions from the [REDACTED] prescribed.

16. [REDACTED] submitted that the right to seek retention or regularisation under Section 53(3) of the [REDACTED] Act would be available on receipt of notice under Section 52(1)(a) and 52(1)(c). [REDACTED] submitted that such right to seek retention or regularisation can not be restricted only to a case where notices have been issued under Sections 52(1)(b) or 52(1)(d) of the [REDACTED] Act. [REDACTED] submitted that such an interpretation would do violence to the statutory scheme in Sections 52 and 53 of the [REDACTED] Act.

17. [REDACTED] submitted that the decision of the [REDACTED] in [REDACTED] ought to be confined to the peculiar facts obtained therein. [REDACTED] submitted that in the said [REDACTED] Writ [REDACTED], the party involved had put up construction on [REDACTED] land by brazenly encroaching upon it. Further, such construction was done without obtaining any single permission under any law to develop the property to any degree.

18. [REDACTED] submitted that it was in the backdrop of such gross facts that the [REDACTED] held that no application for regularisation/ retention would be maintainable with respect to such construction. [REDACTED] submitted that in all these cases, [REDACTED] have put up construction on their own property and not by encroaching upon [REDACTED]



Therefore, the ruling or the observations in [REDACTED] would not apply.

19. [REDACTED] submitted that for the observations in the judgment disposing of [REDACTED] to apply, the two circumstances, i.e. the [REDACTED] being a land encroacher and the construction having been put up without any permission from any [REDACTED], must not co-exist. [REDACTED] submitted that since at least one of the circumstances did not apply to [REDACTED] in the present batch of [REDACTED]s, neither the ratio nor the observations in the judgment disposing of [REDACTED] would apply.

20. [REDACTED] submitted that all these [REDACTED] propose to apply for retention/ regularisation of the structures put up by them without obtaining prior permission from the [REDACTED]. However, [REDACTED] submitted that [REDACTED] are unable to file such applications because there is no clarity about the [REDACTED] (“[REDACTED]”) that should be permitted in the [REDACTED]/ [REDACTED]. [REDACTED] submitted that [REDACTED] admitted to this position and that directions/ clarifications were sought from the [REDACTED] on this commercial aspect. [REDACTED] submitted that such clarifications have, to [REDACTED], not been issued by the [REDACTED].

[REDACTED]. [REDACTED] submitted that the [REDACTED] should be directed to clarify the above issue. In any event, a Writ of Mandamus should be issued to declare that the [REDACTED] should be allowed in terms of the Development Control Rules, 1987, until the [REDACTED]

appropriate amendment is made to the Unified Development Control and Promotion Regulations, (“ ”).

22. based on the above, submitted that the be directed to take a decision on the extent of allowable in the / . Once clarification is issued, must be granted some reasonable time to apply for retention/ regularisation under Section 53(3) of the Act. submitted that until this exercise is complete, must restrain from demolishing the structures/ constructions put up by in the / without obtaining any permission from the .

. at the conclusion of his arguments, also filed a note summarising his arguments. In the course of the arguments, agreed that only such constructions that are otherwise permissible under rules and regulations could qualify for retention and regularisation. In this regard, submitted that the regulations dealing with the / permit the setting up of recreational facilities. submitted that the construction of the is a recreational facility, and therefore, the same is allowable under (at Exhibit “H” of the paper book).

24. For all the above reasons, submitted that the rule in each of these must be made absolute.

25. , learned counsel for the , submitted that the very institution of these constitutes a gross abuse of the

judicial process and, therefore, all these [REDACTED]s must be dismissed with exemplary costs.

26. In the context of [REDACTED] (lead [REDACTED], [REDACTED] pointed out that the first prayer was to set aside the demolition notice issued [REDACTED]. [REDACTED] submitted that, in pursuance of the notice issued [REDACTED], the [REDACTED] unauthorisedly put up by [REDACTED] was demolished on [REDACTED].

27. [REDACTED] submitted that [REDACTED], after the institution of this [REDACTED], have brazenly reconstructed the [REDACTED] and commenced using it for commercial purposes again without bothering to obtain any permission from the [REDACTED]. [REDACTED] submitted that no relief should be granted to such [REDACTED] under Article 226 of the [REDACTED].

[REDACTED]. [REDACTED] submitted that all these [REDACTED]s are concerned with unauthorised constructions put up in the [REDACTED]/[REDACTED]. By referring to the chart [REDACTED] handed out, [REDACTED] submitted that none of the constructions or buildings has any nexus with any of the permissible activities in the [REDACTED]/[REDACTED]. [REDACTED] submitted that even the phrase “recreational facilities” has to be construed in the light of other permissible uses in such a [REDACTED], and from the context, it is quite clear that the construction of the [REDACTED] would not amount to a recreational facility as contended on behalf of the [REDACTED] some of [REDACTED] including [REDACTED] in the lead [REDACTED].

29. \_\_\_\_\_ submitted that none of the provisions of the \_\_\_\_\_ Act vests any unfettered rights in the \_\_\_\_\_ to put up wholly unauthorised construction without obtaining permits from any \_\_\_\_\_ and then to insist upon retention and regularisation of such construction. \_\_\_\_\_ submitted that time and again, \_\_\_\_\_ have ruled that the benefit of regularisation/ retention must not be extended to those who violated the law with absolute impunity and commercially exploit the properties in \_\_\_\_\_ or \_\_\_\_\_ and other \_\_\_\_\_. \_\_\_\_\_ submitted that a grant of any indulgence to such \_\_\_\_\_ who have no regard whatsoever for the law or the environment would amount to granting a premium to lawbreakers.

30. \_\_\_\_\_ submitted that \_\_\_\_\_'s reading and construction of the judgment of the coordinate bench disposing of \_\_\_\_\_ was incorrect. \_\_\_\_\_ submitted that the \_\_\_\_\_ has held that those who breached \_\_\_\_\_ and Planning laws with impunity and brazenly cannot insist upon the right of retention or regularisation post facto and delay the demolition until their applications for regularisation are disposed of. \_\_\_\_\_ submitted that in any event, since none of the construction relates to the uses specified in \_\_\_\_\_, even accepting \_\_\_\_\_'s arguments without prejudice, there is no scope to direct the consideration of the applications for regularisation that \_\_\_\_\_ propose to make in future.

31. \_\_\_\_\_ submitted that all these \_\_\_\_\_ may be dismissed with exemplary costs for all the above reasons.

32. By way of rejoinder, [REDACTED] submitted that [REDACTED] in the lead [REDACTED], [REDACTED], reconstructed the [REDACTED] after it was demolished on [REDACTED], some months after the institution of this [REDACTED]. [REDACTED] first submitted that [REDACTED] made such reconstruction based on an interim relief granted by [REDACTED] staying the demolition.

33. To [REDACTED]'s query as to by which order the said interim relief was granted, [REDACTED] submitted that no specific interim order was granted in [REDACTED]. Still, an interim order was granted in [REDACTED] on [REDACTED]. [REDACTED] submitted that after [REDACTED] was tagged with [REDACTED], [REDACTED] treated the interim order granted in [REDACTED] as one granted in [REDACTED] and, on such basis, reconstructed the [REDACTED].

34. The rival contentions now fall for our determination.

35. In [REDACTED], the [REDACTED] has sought the following substantive reliefs:

“[A] That this [REDACTED] 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 [REDACTED], [REDACTED], quashing and setting aside the demolishing notice bearing [REDACTED] 6/12 [REDACTED] as illegal and bad in law.

[B] That this [REDACTED] 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 [REDACTED], [REDACTED], holding

that the action of the Respondent in demolishing the construction of [REDACTED] in [REDACTED], [REDACTED] is illegal and bad in law.

[C] That this [REDACTED] 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 [REDACTED], [REDACTED], and be pleased to hold that the building plan submitted by [REDACTED] through the Architect, [REDACTED] is deemed to have been sanctioned and therefore, the demolition made by [REDACTED] was demolition in respect of the constructions which is deemed to have been sanctioned and therefore the same is illegal and bad in law.

[D] That alternatively this [REDACTED] 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 [REDACTED], [REDACTED], holding that the [REDACTED] would have been entitled to ask for regularization of the construction if a proper notice would have been given and for such regularization the provisions of the [REDACTED], [REDACTED], would have been attracted and not the provisions of the [REDACTED], [REDACTED].

[E] That alternatively this [REDACTED] 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 [REDACTED], [REDACTED], holding that until a proper amendment is made in the [REDACTED], [REDACTED], as to how much [REDACTED] would be allowable in the [REDACTED], the provisions of [REDACTED] 17.5 (Greenbelt) as contained in the [REDACTED] 1987, would be continued to apply even after [REDACTED] in respect of the cases covered by [REDACTED], [REDACTED].

So far as the reliefs in terms of the prayer clauses (A) and (B) are concerned, they are entirely misconceived and even mischievous. The record bears out that the demolition notice issued under Sections 52/53 of the Act, was after due compliance with all legal procedures. Therefore, possibly not even a ground was urged in support of the alleged invalidity of the impugned notice. As if this was not sufficient, the record bears out that the impugned notice was executed on , when the actually demolished the which had illegally constructed in the / without bothering to obtain any permissions from any for putting up the same.

37. The was instituted only on , i.e. almost ten months after the issue of the impugned notice and its execution. In the , have not at all been candid. There are no clear averments about the execution of the impugned notice and the demolition carried out by the on . There is no dispute that 'unauthorised structure was demolished on in pursuance of the impugned notice . Therefore, possibly, seek a declaration that the demolition of this structure was illegal and bad in law. are duty bound to disclose this factum of demolition, and failure to disclose constitutes suppression of a material fact.

38. in the lead , after instituting the , have once again taken the law into their own hands and proceeded to brazenly reconstruct the at the location

from where it was earlier demolished on [REDACTED]. Again, these [REDACTED] did not bother to seek permission from any [REDACTED]. [REDACTED] reconstructed the demolished [REDACTED], and they commenced using it for commercial purposes with no regard for the law or even the safety of the users. Admittedly, there was no occupancy certificate, and consequently, there were no clearances from the [REDACTED], [REDACTED], etc. From this, it is apparent that these [REDACTED] have neither any regard nor respect for the law and lawful procedures. The conduct of [REDACTED], therefore, disentitles them from seeking any discretionary or equitable reliefs under Article 226 of the [REDACTED].

39. [REDACTED]'s contention that [REDACTED] reconstructed the [REDACTED] based on the interim relief granted by [REDACTED] is, with respect to him, most misconceived. [REDACTED] was unable to show any order granting [REDACTED], in the lead [REDACTED], any interim relief. In any event, the interim relief, if any, would have, at the highest, restrained the [REDACTED] from executing the demolition order had it not already been executed. Certainly, at least in the gross facts of this case, there was no question of some interim mandatory order permitting [REDACTED] to reconstruct the demolished [REDACTED] without seeking any permission from any [REDACTED]. The record bears out that no interim relief was granted in the [REDACTED] (lead [REDACTED] either by staying the demolition or by permitting [REDACTED] to reconstruct the [REDACTED].

40. [REDACTED]'s tenuous submission that the interim relief was granted in [REDACTED] on [REDACTED] and



after [REDACTED] was tagged with [REDACTED]  
[REDACTED], the interim relief in the tagged [REDACTED] should be  
considered as interim relief in [REDACTED] is  
equally mischievous. Even the interim relief in [REDACTED]  
[REDACTED] did not even remotely entitle [REDACTED] in [REDACTED]  
[REDACTED] from reconstructing the demolished  
construction.

41. Thus, the reconstruction of the [REDACTED] by [REDACTED]  
[REDACTED] in the lead [REDACTED] ( [REDACTED] )  
during the pendency of the [REDACTED] and without obtaining any  
permissions from any [REDACTED] amounts to a brazen breach of law  
and legal procedures. Such conduct also disentitles [REDACTED]  
to any equitable and discretionary relief under Article 226 of the  
[REDACTED].

42. The argument in [REDACTED] about the  
deemed permission under Section 45(5) of the [REDACTED] Act is  
misconceived. Section 45(5) provides that if the [REDACTED]  
does not communicate its decision whether to grant or refuse  
permission to the [REDACTED] within sixty days from the [REDACTED] of receipt  
of his application or within sixty days from the [REDACTED] of receipt of  
reply from the [REDACTED] in respect of any requisition made by the  
[REDACTED] whichever is later, such permission shall be  
deemed to have been granted to the [REDACTED] on the [REDACTED]  
immediately following the [REDACTED] of expiry of sixty days. The first  
proviso to this provision provides that the development proposal so  
submitted must be in accordance with the rules and regulations. The  
second proviso provides that any development carried out in  
pursuance of deemed permission that is in contravention of the first

proviso's provisions shall be deemed unauthorised development for the purposes of Sections 52 to 57 of the Act.

43. Section 45 of the Act contemplates making a valid application under Section 44 to the T. provides detailed provisions regarding such applications and their accompaniments. There is absolutely nothing on record to establish that did make any such valid applications to the based upon which now claim the deemed permission. As noted above, did not press this issue of deemed permission. Still, initially, referred to paragraph No. 4 of the and documents at Exhibits 'C' and 'D' in support of the plea of deemed permission.

44. Paragraph No.4 in reads as follows:

“4. also submitted an application for the purpose of seeking the building permission and copy of the application and the plan submitted by is enclosed hereto and is marked as . A letter, from the Architect of viz. is enclosed hereto and is marked as EXHIBIT -D to the Memo of this Civil Writ. In that letter, has clearly confirmed that the said application was made and within the prescribed period, the said application has not been rejected. In the submission of therefore the Deemed permission has been granted in favour of herein.”

45. The document at Exhibit 'C' is a plan that is far from clear. The document at Exhibit 'D' is a three-line private letter and by a stating that had submitted

building plans of \_\_\_\_\_, \_\_\_\_\_, as per D.C. Rules \_\_\_\_\_. No reply was received sanctioning or cancelling the plans until \_\_\_\_\_ of the address of communication \_\_\_\_\_ and \_\_\_\_\_.

46. Based upon the pleadings in paragraph 4 and above and two documents at Exhibit 'C' and 'D', no case is made to invoke the provisions dealing with the deemed permissions. Such averments and contentions only strengthen \_\_\_\_\_'s contention that \_\_\_\_\_ in \_\_\_\_\_ are prepared to go to any extent to breach the law brazenly and put up unauthorised construction for commercial exploitation. For the above reasons, \_\_\_\_\_ are satisfied that no reliefs can be granted to \_\_\_\_\_, as claimed in prayer clause (C).

47. \_\_\_\_\_'s contention that the \_\_\_\_\_ is a recreational facility in the context of \_\_\_\_\_ can also not be accepted. The provisions of \_\_\_\_\_ have to be read holistically, bearing in mind the context. Such a holistic and contextual reading does not support \_\_\_\_\_'s contention.

48. \_\_\_\_\_, relied upon by \_\_\_\_\_ reads as follows:

\_\_\_\_\_  
\_\_\_\_\_/\_\_\_\_\_

\_\_\_\_\_.1 Following uses shall be permissible

i) \_\_\_\_\_,

ii) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ etc.

iii) \_\_\_\_\_ from development by \_\_\_\_\_ or any institution authorised on behalf of \_\_\_\_\_

iv) Development of \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, Boat clubs etc.

v) \_\_\_\_\_, club houses, recreational facilities after leaving 15 m. belt along \_\_\_\_\_ and 9m. from \_\_\_\_\_, subject to other provisions in these regulations.

vi) \_\_\_\_\_ as per requirement.

vii) \_\_\_\_\_ of any layout/sub-division/ development proposals, if submitted along with the developable land adjoining such \_\_\_\_\_, after leaving marginal distances of minimum 15m. and 9m. from \_\_\_\_\_ and \_\_\_\_\_, respectively, or subject to (1) restrictions mentioned in Regulation No. 3.1.3.

a) The uses and their extent shall be permissible in such \_\_\_\_\_, as prescribed in this regulation.

b) If the land under \_\_\_\_\_, excepting open space therein, if any, is required by \_\_\_\_\_ for the public purposes mentioned above, the \_\_\_\_\_ shall hand over the possession of \_\_\_\_\_ for the development and maintenance of public purposes. \_\_\_\_\_ shall remain open and accessible to general public for recreational activities.

c) The side/ rear marginal distances for a proposed building in a land adjoining a \_\_\_\_\_ shall be the maximum of :-

(i) Side/ rear marginal distance, to be measure from \_\_\_\_\_, as required according to \_\_\_\_\_ height of building or



demolition in pursuance of the impugned demolition notice. Still, by claiming to have obtained interim relief which, in fact, none was granted, this [redacted] took the law into his own hands and reconstructed the [redacted]. Such a brazenly illegal structure cannot be regularised. Besides, for the above reasons, such a structure is not even regularisable, given the provisions of [redacted]

4. Furthermore, this is a case where [redacted] have not even applied for regularisation or retention before the impugned notice [redacted] was executed. [redacted] have not even applied for regularisation or retention at any time [redacted]. The difficulty about lack of clarity concerning the permissible [redacted] in the [redacted] / [redacted] does not appear to be any bonafide difficulty. Such difficulty did not prevent [redacted] from brazenly constructing and even reconstructing the [redacted] in the [redacted] / [redacted]. Therefore, based upon this so-called projected difficulty, no indulgence whatsoever can be shown to [redacted] in [redacted] and other similarly circumstanced [redacted].

53. The reliefs in terms of prayer clauses (D) and (E) of [redacted] are also entirely misconceived in the facts and circumstances of the present case. No declaration, as sought in prayer clause (D), can at all be issued in the gross facts and circumstances of the present case. The [redacted] had issued a proper notice under Sections 52/53 of the [redacted] Act, and relief in terms of prayer clause (D) proceeds on the premise that such notice was improper. As noted earlier, no submissions were made regarding the

alleged invalidity of the impugned notices. The main thrust of the oral and written submissions was the entitlement to apply for regularisation, however illegal the constructions built by might be.

54. Even the alternate relief in terms of the prayer clause (E) is quite misconceived. There is no question of directing the amendment to, or declaring that until such amendment is made, the same provisions of the 1987 would continue to apply. In the facts of the present case, such an issue does not even arise. who succeeded in obtaining some interim relief raise such contentions only to prolong the hearing of the matters.

55. For these reasons, the relief in terms of prayer clauses (D) and (E) is hereby rejected.

56. Even otherwise, the law concerning the regularisation of illegal construction is fairly well settled. The benefit of regularisation is never to be extended to the parties who violate the building regulations or environmental regulations brazenly and with impunity. has repeatedly warned against such regularisations and even directed action against officials who regularised such constructions without adequate cause. has held that such indiscriminate regularisation discriminates against the law-abiding who refuse to pay bribes and follow the due, though long, process of securing permission from all prescribed before putting up any construction. A review of some of the precedents on this issue would emphasise this point.

57. In [REDACTED] and [REDACTED],<sup>1</sup> [REDACTED] observed that in the last five decades, the provisions contained in various municipal laws for planned development of the areas to which such laws are applicable have been violated with impunity in all the [REDACTED], big or small. Those entrusted with the task of ensuring the implementation of the master plan, etc., have miserably failed to perform their duties. *It is highly regrettable that this is so despite the fact that [REDACTED] has, keeping in view the imperatives of preserving the ecology and environment of the area and protecting the rights of the [REDACTED], repeatedly cautioned the [REDACTED] against arbitrary regularisation of illegal constructions by way of compounding and otherwise.*

58. In [REDACTED] vs. [REDACTED], the [REDACTED] rejected the plea for regularisation of construction made in violation of the provisions of the planning and municipal legislation by observing that no [REDACTED] administering municipal laws and other laws like the [REDACTED] Act involved in the matter, can encourage such violations. *Even otherwise, compounding is not to be done when violations are deliberate, designed, reckless, or motivated. Marginal or insignificant accidental violations unconsciously made after trying to comply with all the law requirements can alone qualify for regularisation, which is not the rule but a rare exception.*

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<sup>1</sup> ([REDACTED]) [REDACTED] 357

<sup>2</sup> ([REDACTED]) 7 [REDACTED] 597



59. In [REDACTED] [REDACTED] [REDACTED] vs. [REDACTED] [REDACTED] [REDACTED],<sup>3</sup> the [REDACTED] has held that what needs to be emphasised is that illegal and unauthorised constructions of buildings and other structures not only violate [REDACTED] laws and the concept of planned development of the [REDACTED] but also affect various fundamental and constitutional rights of other persons. [REDACTED] feels *degraded* when [REDACTED] finds that those making illegal and unauthorised constructions are supported by the people entrusted with the duty of preparing and executing the master plan/development plan/zonal plan. The reports of the demolition of [REDACTED] belonging to the poor and disadvantaged section of society frequently appear in the [REDACTED]. Still, one seldom gets to read about the demolition of illegally/unauthorisedly constructed multi-storeyed structures raised by economically affluent people. The failure of the [REDACTED] to take prompt action to demolish such illegal constructions has convinced the [REDACTED] that planning laws are enforced only against the poor and all compromises are made by the [REDACTED] when it is required to deal with those who have money and power or unholy nexus with the power corridor.

60. In [REDACTED] vs. [REDACTED], the [REDACTED] has, after advertent to its several earlier judgments on the subject, taken cognisance of buildings constructed in violation of municipal and other laws and emphasised that no compromise should be made with the [REDACTED] and no relief should be given to the violator of the [REDACTED],

<sup>3</sup> ([REDACTED]) [REDACTED] 336

<sup>4</sup> (2009) 1 [REDACTED] 705

etc. on the ground that [redacted] has spent a substantial amount on the construction of the buildings. The [redacted] remarked that, unfortunately, despite repeated judgments of the [redacted] and [redacted], illegal constructions continue to mushroom, and [redacted] pleas are made for regularisation on the grounds of compassion and hardship. Therefore, the [redacted] has observed that it is high time that the [redacted] of the [redacted] take a serious view of the menace of illegal and unauthorised constructions.

61. In [redacted] vs. [redacted], the [redacted] has held that structural and lot area regulations authorise [redacted] to regulate and restrict the height, the number of storeys and other structures, the percentage of a plot that may be occupied; the size of [redacted], [redacted], and [redacted]; the density of population; and the location and use of buildings and structures. All these have and do achieve the larger purpose of [redacted], safety or general welfare. So are front setback provisions, average alignments, and structural alterations. Any violation of zoning and regulation laws takes a toll in terms of public welfare and convenience being sacrificed apart from the risk, inconvenience, and hardship posed to the occupants of the building. The [redacted] further observed that municipal laws permit deviations from sanctioned constructions being regularised by compounding, but that is by exception. Unfortunately, with the lapse of time and frequent exercise of the discretionary power conferred by such exception, the exception has become the Rule. Only such deviations deserve to be condoned as are bona fide or are attributable to some misunderstanding or are such deviations as were the benefit gained by

<sup>5</sup> (2004) 8 [redacted] 733

demolition would be far less than the disadvantage suffered. Other than these, deliberate deviations do not deserve to be condoned and compounded. Therefore, compounding of deviations ought to be kept at a bare minimum.

62. Relying on the above decisions, [REDACTED], in [REDACTED] vs. [REDACTED], had set aside the order of regularisation of a patently unlawful construction. This decision was challenged before the [REDACTED] by instituting Special Leave to Appeal(C) No.4135 of [REDACTED]. However, the same was dismissed by the [REDACTED], observing thus:-

"I had learned counsel for [REDACTED]

*The violation of municipal regulations on construction must be met with an iron fist. That deviation from the regularisation by compounding is only an exception. Only deviations that are bonafide or when the benefit of demolition would be less compared to the disadvantage suffered, can the exception be applied. I do not find any ground to interfere. The demolition was ordered in the year [REDACTED]. Till this day, the same is being prolonged. Hence, I decline to interfere with the judgment and order of the [REDACTED]. The Special Leave [REDACTED] stands dismissed."*

63. Very recently, in [REDACTED] vs. [REDACTED]<sup>7</sup>, decided by the [REDACTED] of our [REDACTED] on [REDACTED], it was held that no indulgence must be shown to unlawful constructions that are brazenly put up. *Only such deviations deserve to be condoned as*

<sup>6</sup> [REDACTED] OnLine Bom 122

<sup>7</sup> Writ [REDACTED] (L) No.2 [REDACTED] 98 of [REDACTED]

are bonafide or are attributable to some misunderstanding or are such deviations as were the benefit gained by demolition would be far less than the disadvantage suffered.

64. The [redacted] relied inter alia on *Mahendra Baburao Mahadik & [redacted] v/s. [redacted] & [redacted]-( [redacted] ) [redacted]*, [redacted] vs. [redacted] ( [redacted] ) [redacted], [redacted] vs. [redacted], [redacted] & Another vs. [redacted]-( [redacted] ) 1 Bom CR 341, [redacted] Vs. [redacted] & [redacted] OnLine [redacted], [redacted] Vs [redacted] ( [redacted] ) [redacted], [redacted] vs. [redacted] Resident Welfare Association & Others, ( [redacted] ) 10 [redacted] (1), [redacted] vs. [redacted], [redacted], ( [redacted] ) [redacted], [redacted] vs. [redacted], ( [redacted] ) 2 [redacted] 27, [redacted] v. [redacted], ( [redacted] ) [redacted] 357, [redacted] and another vs. [redacted] & Others, ( [redacted] ) [redacted], Jilani Building at [redacted] vs. [redacted] Nizampur [redacted] and others, ( [redacted] ) [redacted] OnLine Bom 386, [redacted] vs. [redacted], ( [redacted] ) 3 [redacted] (Civ) 72 and [redacted] vs. [redacted], [redacted] (2) *Mh.L.J.* 759, on the subject of regularisation of illegal constructions. Finally, the [redacted] reiterated that the regularisation of illegal constructions brazenly put up

*in defiance of the legal provisions and the stop work notice must not ordinarily be permitted. The [redacted] dismissed the Special Leave [redacted] against this order on [redacted].*

65. Therefore, applying the ratio of the above-referred precedents to the gross facts of each of these [redacted]s, no case is made out to direct the [redacted] to consider the regularisation of the constructions that [redacted] have put up with impunity and in defiance of virtually all the planning laws and regulations.

66. [redacted]'s submissions in the context of the judgment disposing of [redacted] also cannot be accepted. A judgment of a [redacted] cannot be interpreted like a statute. The fact that the respondent in the said [redacted] had brazenly encroached upon the [redacted] land was just one of the considerations why [redacted] did not permit such a respondent to seek regularisation. But [redacted], by following some of the above-referred precedents, held that the regularisation of illegal constructions brazenly put up in defiance of the legal provisions and the stop work notice must not ordinarily be permitted.

67. In any event, even if [redacted] decline to follow the judgment in the suo moto writ [redacted] because of the partial stay on the implementation of some of the directions issued therein, still, considering the gross facts in each of these [redacted]s and the law laid down by [redacted] in matters of regularisation of illegal constructions, no relief can be granted to [redacted].

68. For all the above reasons, [redacted] is liable to be dismissed and [redacted] hereby dismissed with costs of Rs.

50,000/- payable by \_\_\_\_\_ to \_\_\_\_\_ within four \_\_\_\_\_ weeks. These costs are imposed because \_\_\_\_\_ with impunity, reconstructed the demolished \_\_\_\_\_ without obtaining any permissions from any \_\_\_\_\_ and by claiming to have obtained interim relief from \_\_\_\_\_ when, in fact, no such interim relief was ever granted.

69. So far as \_\_\_\_\_ in \_\_\_\_\_ is concerned, \_\_\_\_\_ has put up a \_\_\_\_\_ to undertake the industrial activity of glass work, \_\_\_\_\_ and \_\_\_\_\_. None of these users could even be remotely styled as permissible users under \_\_\_\_\_ quoted above. Therefore, there is no infirmity whatsoever with the impugned action of the \_\_\_\_\_ in ordering the demolition of said \_\_\_\_\_. Given the discussion for dismissing the lead \_\_\_\_\_ above, \_\_\_\_\_ is also liable to be dismissed with costs quantified at Rs.25,000/- payable by \_\_\_\_\_ to \_\_\_\_\_ within four \_\_\_\_\_ weeks. Interim relief, if any, is vacated.

70. In so far as \_\_\_\_\_ is concerned, \_\_\_\_\_ therein has put up a \_\_\_\_\_/toilet \_\_\_\_\_. The \_\_\_\_\_ only protects \_\_\_\_\_. The \_\_\_\_\_'s return \_\_\_\_\_ that on the earlier occasion, a smaller structure put up by \_\_\_\_\_ in \_\_\_\_\_ was demolished pursuant to the notice \_\_\_\_\_ and \_\_\_\_\_. \_\_\_\_\_ has suppressed this fact. \_\_\_\_\_ had reconstructed a similar structure and by the impugned notice, the same was ordered to be demolished. Such repeated unauthorised construction disentitles this \_\_\_\_\_ to any relief. Even on merits, no relief is due to this \_\_\_\_\_. \_\_\_\_\_ is accordingly dismissed with costs

quantified at Rs. 25,000/- payable by \_\_\_\_\_ to \_\_\_\_\_ within four \_\_\_\_\_ weeks. Interim relief, if any, is vacated.

71. So far as \_\_\_\_\_ is concerned, \_\_\_\_\_ therein has constructed a \_\_\_\_\_ through which \_\_\_\_\_ carries out furniture works and a \_\_\_\_\_. Again, this is not one of the permissible users under \_\_\_\_\_. Therefore, by adopting the reasons in the lead \_\_\_\_\_ (\_\_\_\_\_), \_\_\_\_\_ is dismissed with costs quantified at Rs. 25,000/- payable by \_\_\_\_\_ to \_\_\_\_\_ within four \_\_\_\_\_ weeks. Interim relief, if any, is vacated.

72. So far as \_\_\_\_\_ is concerned, \_\_\_\_\_ therein has put up a \_\_\_\_\_ in which \_\_\_\_\_ carries out the business of pet care in the name “\_\_\_\_\_”. By adopting the reasons in the lead \_\_\_\_\_ (\_\_\_\_\_), \_\_\_\_\_ is dismissed with costs quantified at Rs. 25,000/- payable by \_\_\_\_\_ to \_\_\_\_\_ within four \_\_\_\_\_ weeks. Interim relief, if any, is vacated.

73. In so far as \_\_\_\_\_ is concerned, \_\_\_\_\_ therein is using the \_\_\_\_\_ for residential purposes. \_\_\_\_\_ put up the construction without any permission from any \_\_\_\_\_. There is no infirmity in the impugned notice. Accordingly, even \_\_\_\_\_ is liable to be dismissed and is hereby dismissed without costs. Interim relief, if any, is vacated. No costs are imposed because the structure, though illegal, was not used commercially.

74. So far as [REDACTED] is concerned, [REDACTED] [REDACTED] therein has put up a [REDACTED] which [REDACTED] uses as a tea stall and store. Again, [REDACTED] said [REDACTED] was put up without any permission from any [REDACTED], and consequently, the impugned notice can not be faulted. For these reasons, [REDACTED] is dismissed with costs quantified at Rs. 5000/-. Considering the nature of the illegal construction put up by this [REDACTED] few costs are imposed. Interim relief, if any, is vacated.

75. So far as [REDACTED] is concerned, [REDACTED] [REDACTED] therein has put up constructions through which [REDACTED] is operating a [REDACTED]. Again, no permissions [REDACTED] are obtained from any [REDACTED] to put up said construction. The case of this [REDACTED] is not comparable to the case of [REDACTED] in [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED], wherein [REDACTED] [REDACTED] are using the [REDACTED] for residential purposes and a [REDACTED]. Therefore, [REDACTED] is dismissed with costs quantified at Rs. 25,000/- payable by [REDACTED] [REDACTED] to the [REDACTED] within four [REDACTED] weeks. Interim relief, if any, is vacated.

76. In so far as [REDACTED], [REDACTED] and [REDACTED] [REDACTED] are concerned, [REDACTED] [REDACTED] are using the unauthorised constructions put up by them as [REDACTED]. For the reasons in the context of the lead [REDACTED] ([REDACTED] [REDACTED]) and [REDACTED] [REDACTED], all these [REDACTED]s are liable to be dismissed and [REDACTED] are hereby dismissed with costs quantified at Rs. 25,000/- payable by each [REDACTED] to the [REDACTED] within four [REDACTED] weeks. Interim relief, if any, is vacated.



77. In regard to Writ Nos. [REDACTED] and [REDACTED], the [REDACTED] returns indicate that these [REDACTED]' structures were earlier demolished on [REDACTED]. However, after such demolition, [REDACTED] reconstructed these structures without obtaining any permission from any [REDACTED]. Thus, apart from the law, even the conduct of these [REDACTED] disentitles them to any relief under Article 226 of the [REDACTED].

78. So far as [REDACTED] is concerned, [REDACTED] is operating a [REDACTED] or [REDACTED] from unauthorised construction. Therefore, for the reasons set out in the context of the lead [REDACTED], this [REDACTED] is liable to be dismissed and is hereby dismissed with costs quantified at Rs. 25,000/- payable by [REDACTED] to the [REDACTED] within four weeks. Interim relief, if any, is vacated.

79. So far as the [REDACTED] is concerned, [REDACTED] therein is operating a [REDACTED]. On [REDACTED], this structure was demolished, and without obtaining permission from any [REDACTED], reconstructed the structure in the same place. Thus, for the reasons set out in the context of the lead [REDACTED], even this [REDACTED] is liable to be dismissed and is hereby dismissed with costs of Rs. 25,000/- payable by [REDACTED] to the [REDACTED] within four weeks. Interim relief, if any, is vacated.

80. The rule in all the [REDACTED] is discharged as indicated above. All interim applications also stand disposed of.

81. Perhaps anticipating the dismissal of these [REDACTED], [REDACTED] had prayed for an extension of interim relief to enable [REDACTED] to challenge this judgment and order.

82. However, given the gross facts discussed above and the fact that interim orders were obtained in most of these [REDACTED]s by suppressing material facts about the demolition of [REDACTED]'s structures by the [REDACTED] by following the due process of the law, and [REDACTED] reconstructing such structures by defying the due process of the law, no such extension can be granted. The prayers for an extension of interim reliefs are, therefore, rejected.

(\_\_\_\_\_, J)

(\_\_\_\_\_, J)