


MHRG140004432021 	Presented on	25.03.2021
	Registered on	23.03.2021
	Decided on	10.03.2026
	Duration	YY – MM – DD 04 – 11 - 15

PART 'A'

(Title Page of Judgment)

<p><u>IN THE COURT OF JT. C.J.J.D. AND J.M.F.C. AT URAN,</u> <u>TQ- URAN, DIST. RAIGAD</u></p> <p style="text-align: center;">-</p> <p>Present :- Santosh P. Wankhade, J.M.F.C.</p> <p>Date : 10/03/2026</p> <p>R.C.C. No- 107/2021 Exh. No- 45</p> <p style="text-align: center;">(Crime No. 423/2020, U/Sec. 53(7) of the Maharashtra Regional and Town Planning Act 1966 of Police Station, Uran, Tq- Uran, Dist. Raigad).</p>		
Complainant / Prosecution	:-	STATE OF MAHARASHTRA

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			Through P.S.O. Uran, Police Station, Uran, Tq- Uran, Dist- Raigad.
Represented By	:-		Smt. Shital Pawar Learned A.P.P. for the State
Accused	:-		Shri. Harish Gunwantrai Davada, Age: 58, Occupation : Business R/o Mahavir Nagar, Kandiwali (West), Mumbai.
Represented By	:-		Shri. Yogesh Gangan, Smt. Roshani Bare Learned Advocates for accused

PART 'B'

Date of Offence	:-	24.01.2019 to 27.10.2020
Date of F.I.R.	:-	27.10.2020

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Date of Charge-sheet	:-	25.03.2021
Date of framing of Charges	:-	25.03.2021
Date of commencement of Evidence	:-	09.08.2024
Date on which Judgment is reserved	:-	26.02.2026
Date of the Judgment	:-	10.03.2026
Date of the sentencing order, If any	:-	-

Accused Details

Rank of the accused	Name of accused	Date of Arrest	Date of release on bail	Offences Charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention undergone during trial for the purpose of Section 428
1.	Harish Gunwant	-	25.03.2021	53(7) of the Maharashtra	Acquitted	No	---

	rai Davada			a Regional and Town Planning Act 1966			
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PART 'C'

List of Prosecution/Defence/Court Witnesses

A. Prosecution :-

RANK	NAME	NATURE OF EVIDENCE
PW-1	Shivraj Chandrakant Chauhan (Exh-19)	Witness
PW-2	Vikram Vasant Ladke (Exh-22)	Witness
PW-3	Amit Narendra Shinde (Exh-24)	Informant
PW-4	Tukaram Raosaheb Nimbalkar (Exh-38)	Investigating Officer

B. Defence Witnesses, if any :-

RANK	NAME	NATURE OF EVIDENCE
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C. Court Witnesses, if any :-

RANK	NAME	NATURE OF EVIDENCE
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List of Prosecution/Defence/Court Exhibits

A. Prosecution's Exhibits:-

Sr.No.	Exhibit Number	Description
1.	Exhibit-25 / PW - 3	Office Order
2.	Exhibit- 26 / PW - 3	Notice
3.	Exhibit-27/ PW- 3	Office Order
4.	Exhibit-28/PW-6	Letter
5.	Exhibit- 29 / PW - 3	Report

6.	Exhibit- 30 / PW - 3	F.I.R.
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B. Defence's Exhibits :-

Sr.No.	Exhibit Number	Description
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C. Court's Exhibits :-

Sr.No.	Exhibit Number	Description
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D. Material Objects :-

Sr.No.	Material Object Number	Description
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J U D G M E N T

(Delivered on this 10th Day of March, 2026)

1. The accused is facing trial for the commission of an offence punishable under Section 53(7) of the Maharashtra Regional and Town Planning (MRTP) Act, 1966.

The case of the prosecution in brief, is as under :-

2. The informant Amit Narendra Shinde, Controller of Unauthorized Constructions (NAINA), CIDCO, Navi Mumbai, is authorized to initiate legal proceedings against unauthorized constructions. It is alleged that the accused, associated with M/s B.L.R. Logistics Pvt. Ltd., carried out unauthorized construction of a warehouse measuring approximately 63.37m x 41.27m at Survey No. 37/1/A and others, at Village Dighode, Taluka Uran, District Raigad, without obtaining the mandatory prior permission from the NAINA planning authority.

3. An inquiry notice was issued on 24.01.2019. The accused submitted some documents, but failed to provide a valid commencement certificate and completion certificate. Consequently, a statutory notice under Section 55(1) of the MRTP Act was issued on 04.03.2020, directing the accused to restore the land to its original state. The accused failed to comply with the said notice. Accordingly, a First Information Report (FIR) bearing C.R. No. 423/2020 was registered at

Uran Police Station on 27.10.2020.

4. Upon completion of the investigation, the Investigating Officer filed the chargesheet on 25.03.2021. The charge was framed against the accused for the offence punishable under Section 53(7) of the MRTP Act on 25.03.2021. The charge was read over and explained to the accused, to which he pleaded not guilty and claimed to be tried. To bring home the guilt of the accused, the prosecution has examined four witnesses. After closing the prosecution evidence vide Pursis (Exh-42), the statement of the accused under Section 313 of the Code of Criminal Procedure was recorded (Exh-43). The accused denied all incriminating circumstances and claimed that the witnesses deposed falsely. The accused declined to examine any defence witness.

5. Heard the arguments advanced by the Learned Assistant Public Prosecutor (APP) for the State and the Learned Defence Counsel. The Ld. APP argued that the testimony of the official witnesses and the documentary evidence sufficiently prove the guilt of the accused. Per contra, the Ld. Defence Counsel submitted that the mandatory notice was never served upon the accused, the investigation is fundamentally flawed, and the prosecution has failed to prove the case beyond reasonable doubt.

6. Based on the pleadings and evidence on record, the following points arise for my determination, and I record my findings thereon for the reasons discussed below:

Sr. No.	POINTS	FINDINGS
01.	Does the prosecution prove beyond reasonable doubt that the accused erected an unauthorized construction at Survey No. 37/1/A, Village Dighode, without prior permission from the competent planning authority?	In the Negative.
02.	Does the prosecution prove beyond reasonable doubt that despite being served with the requisite statutory notice under the MRTP Act, the accused failed to remove the unauthorized construction and restore the land to its original condition, thereby committing an offence under Section 53(7) of the MRTP Act?	In the Negative.
03.	What order?	The accused is acquitted

REASONS

AS TO POINT NO.- 1 TO 3 :-

7. Since all the points are intertwined, they are taken up together for discussion to avoid repetition. The entire premise of an offence under Section 53(7) of the MRTP Act rests on two primary pillars: firstly, the existence of an unauthorized development, and secondly, the valid service of a statutory notice upon the owner/developer and their subsequent failure to comply with the said notice.

8. To prove the service of the notice, the prosecution relies on the testimonies of PW-1, PW-3, and PW-4. PW-3 (Informant Amit Shinde) deposed that a notice under Section 55(1) of the MRTP Act (Exh-26) was issued to the accused on 04.03.2020. However, in his cross-examination, PW-3 categorically admitted that he cannot state whether the signature on the receipt of the notice at Exh-26 belongs to the accused. This creates a severe dent in the prosecution's case regarding the service of the notice.

9. The flaw in service is further aggravated by the admissions of the Investigating Officer, PW-4 (Tukaram Nimbalkar). In his cross-examination, PW-4 admitted that the notice (Exh-26) was actually received and signed by one 'Alim Shaikh'. He further admitted that Alim Shaikh is an accused in another Crime registered at Uran Police Station. Shockingly, the IO admitted that he never recorded the statement of Alim Shaikh to ascertain his connection, if any, with the present accused

or M/s B.L.R. Logistics. Service of notice upon an unconnected third party cannot be construed as valid legal service upon the accused. In absence of valid service of notice, the penal provisions for non-compliance cannot be invoked.

10. Furthermore, the evidence reveals a defective investigation and lack of basic factual verification. PW-4 (IO) admitted that he did not verify the 7/12 extract of the subject land, nor did he investigate the condition of the land prior to 24.01.2019. PW-3 also admitted that he had no personal knowledge regarding the status of the property prior to 01.01.2019.

11. Further casting doubt on the prosecution's case is the issue of jurisdiction. PW-1 (Surveyor Shivraj Chavan) admitted in his cross-examination that the village Dighode presently falls under the jurisdiction of the MMRDA and not CIDCO. He also admitted that he did not personally serve the preliminary notice dated 24.01.2019 and had no personal knowledge of the property's condition prior to 2017.

12. PW-2 (Vikram Ladke), a CIDCO security guard, deposed regarding the serving of notice to produce documents, but his evidence was severely shaken in cross-examination where he admitted he lacked the authority to verify documents and gave evasive answers regarding his statement to the police.

13. It is a cardinal principle of criminal jurisprudence that the

prosecution must stand on its own legs and prove its case beyond all reasonable doubt. The mandatory requirement of serving a notice under the MRTTP Act has not been fulfilled, as the notice was admittedly received by a third party whose relation to the accused was never established by the Investigating Officer. The failure to verify the ownership records (7/12 extract) and the admission regarding the change in planning authority (MMRDA instead of CIDCO) further weaken the prosecution's case.

14. Therefore, I hold that the prosecution has utterly failed to prove beyond reasonable doubt that a valid statutory notice was served upon the accused, or that the accused willfully failed to comply with the same. Consequently, both Points No. 1 and 2 are answered in the Negative. In the result, the accused is entitled to be acquitted. Hence, for the answer to Point No-3, I proceed to pass the following order:

ORDER

1. Accused **Harish Gunvantrai Davda** is hereby acquitted under Section 248(1) of the Code of Criminal Procedure for the offence punishable under Section 53(7) of the Maharashtra Regional and Town Planning Act, 1966.
2. The bail bonds and surety bonds of the accused stand cancelled.
3. The accused shall execute a P.R. Bond of Rs. 15,000/- with one surety in the like amount in compliance with Section 437-A of the Cr.P.C., to appear before the Hon'ble

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Appellate Court as and when such court issues notice in respect of any appeal or petition filed against this judgment. Such bail bond shall be in force for a period of six months. (Judgment is pronounced in open court)

Date : 10-03-2026

(Shri. S. P. Wankhade)

Jt. C.J.J.D. & J.M.F.C. Uran,

Tq- Uran, Dist- Raigad.