

H.C. SHIV

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.11053 OF 2026

Nitin Laxmidas Dama & Ors. ... Petitioner
V/s

Maharashtra Housing and Area
Development Authority & Ors. ... Respondents

Mr. J. S. Kini with Mr. Aum J. Kini i/b Sapna Krishnappa
for the Petitioner.

Mr. P. G. Lad with Ms. Sayali Apte with Ms. Murlidharan
Kalathil for Respondent nos.1 and 2-MHADA.

Mr. Milind More, Addl.G.P. for Respondent No.3-State.

Ms. K. H. Mastakar for Respondent No.4-BMC.

**CORAM: SHREE CHANDRASHEKHAR, C.J. &
SHYAM C.CHANDAK, J.**

DATE: 17th APRIL 2026

P.C.:

The order dated 6th March 2026 issued by 2nd respondent Designated officer of Maharashtra Housing and Area Development Authority (in short "MHADA") has been challenged by the petitioners who claim themselves as occupants and tenants in their respective commercial shops situated at Chawl no.46, Motilal Nagar-1 at Goregaon (West) for last more that 50 to 60 years.

2. Petitioner No.8 is the registered cooperative housing society who has joined other petitioners to lay a challenge to the said order dated 6th March 2026. The petitioners have also challenged the notice/order dated 29th January 2026, 13th February 2026 and

26th February 2026.

3. In the order dated 6th March 2026, the Designated Authority has indicated that a notice was issued on 29th January 2026 upon the petitioners pursuant to site inspection conducted on 28th January 2026. The petitioners were provided opportunity of hearing on 16th February 2026 and the Designated Authority has recorded in the order dated 6th March 2026 that the petitioners did not possess any building permission. However, if they may so desire they can file an appeal in the appropriate Court. Notwithstanding that, the petitioners have been directed to remove the constructions within 15 days of notice.

4. Under Section 44 of the MRTP Act, every person has a right to carry on construction over any land subject to seeking permission of the statutory authority on furnishing necessary details as prescribed thereunder. If such a permission is declined under section 44, the aggrieved party has been provided a forum for appeal. There is also a provision under sub-section (3) of section 53 of the MRTP Act providing an opportunity to the aggrieved party to seek compounding of the constructions made without permission provided an application is filed within 30 days of issuance of the statutory notice. The petitioners have claimed that they have been occupying subject property for the last at least 50 years. We are, therefore, inclined to grant liberty to the petitioners to move an appropriate application before the Competent Authority seeking regularization of the constructions made without permission of the Corporation.

3. The writ petition is allowed with directions as under :-

(a) The order dated 6th March 2026 passed by 2nd respondent is

quashed and set aside.

(b) The respondent-appropriate authority shall decide if the constructions made without permission may be compounded, provided permissible under the law. Such a decision shall be taken by the appropriate Authority within four weeks from today.

[SHYAM C. CHANDAK, J.]

[CHIEF JUSTICE]