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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1148 OF 2014**

Mr. Madhukar Krishnaji Khedekar and Ors. ... Petitioners

Versus

The State of Maharashtra and Ors. ... Respondents

Mr. Saurabh Madhusudan Railkar for the Petitioners.

Mr. V.S. Gokhale, AGP for the Respondent No.1.

Mr. G.H. Keluskar for the Respondent Nos.2 and 3.

Mr. S.G. Deshmukh i/by Mr. Abhijeet Jayant Kandarkar for the Respondent Nos.4 to 7.

**CORAM : A.S. OKA &
G.S. PATEL, JJ.**

DATE : 21st DECEMBER, 2015

P.C.

1 The learned counsel appearing for the fourth to seventh Respondents has tendered an affirmed undertaking of the sixth Respondent Mr. Yogesh Jog which is filed for himself and on behalf of fourth, fifth and seventh Respondents. The said undertaking is taken on record and marked 'A-1' for identification. The learned counsel appearing for the Petitioners has tendered an affirmed undertaking of all the 15 Petitioners. The same is taken on record and marked 'A-2' for identification.

2 The learned counsel appearing for the fourth to seventh Respondents has pointed out that in terms of clause (c) of paragraph 4 of the undertaking of the said Respondents, the said Respondents have undertaken to allot the premises to the Petitioners as per the area of the respective premises held by the Petitioners as recorded in the Municipal records. However, for the sake of clarity, he states that if a municipal officer is directed to visit the premises presently held by the Petitioners and to measure the area of the premises in the occupation of each Petitioner, the fourth to seventh Respondents shall allot the premises having areas as found by the municipal officer on actual measurement. We accept the said statement as undertaking of the said Respondents.

3 Hence, we dispose of the Petition by passing the following order :-

ORDER

- (i) The undertaking of the fourth to seventh Respondents marked 'A-1' for identification is accepted. In addition, the aforesaid statement made by their learned counsel, on instructions, which is recorded in paragraph 2 above is also accepted as the undertaking of the said Respondents;
- (ii) The undertaking of the Petitioners marked 'A-2' is accepted;
- (iii) We direct the City Engineer of the Sangli Miraj & Kupwad

Municipal Corporation to depute any competent officer to visit the building subject matter of this Petition on 4th January, 2016 at 11.00 am when the Petitioners as well as fourth to seventh Respondents shall also remain present. The officer nominated by the City Engineer of the said Municipal Corporation will measure the areas of the premises respectively occupied by the Petitioners at present. The measurement of the area shall be in terms of the carpet area;

- (iv) A measurement sheet shall be drawn by the officer nominated by the City Engineer. The copies of the measurement sheet shall be supplied by the said officer to the Petitioners as well as to the fourth to seventh Respondents;
- (v) We make it clear that the tenements of the areas mentioned in the measurement sheet prepared by the municipal officer shall be allotted by the fourth to seventh Respondents to the Petitioners in terms of clause 4 of the undertaking of the fourth to seventh Respondents;
- (vi) As the Petitioners have given undertaking to this Court to vacate the premises in their respective possession on or before 30th April, 2016, we direct the Municipal

Corporation not to take action of demolition in respect of the premises held by the Petitioners on the basis of the impugned notices till 30th April, 2016;

- (vii) In the event of the Petitioners committing breach of the undertaking to hand over possession of the premises, apart from other remedies available to the fourth to seventh Respondents, they will be entitled to seek appropriate relief in disposed of Petition by filing an appropriate application;
- (viii) The Petition is disposed of on above terms.

(G.S. PATEL, J)

(A.S. OKA, J)