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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.2063 OF 2014
IN
WRIT PETITION NO.2244 OF 2011**

Ackruti Jay Chandan Joint Venture and Ors. ...Applicants
v/s.
The State of Maharashtra and Ors. ...Respondents.

Mr.R.D.Soni a/w Mr.H.N.Vakil i/b M/s.Mulla & Mulla & CBC for the Applicants.

Ms.M.P.Thakur, AGP for the Respondent Nos.1 to 3.

Ms.Pooja Singh i/b Mr.N.R.Bubna, for the Respondent No.5.

**CORAM: A. S. OKA &
REVATI MOHITE DERE, JJ.**

DATED : 22nd JULY, 2015.

P.C.

1. Perused the order dated 26th June, 2015 and in particular Clause – 2 thereof.

2. An affidavit is filed by Shri Ali Murtuza, Senior Manager (Legal) of the first applicant. We have perused the said affidavit. The said affidavit does not show compliance with all the terms and conditions of the

orders of exemption under Section 20(1) of the Urban Land (Ceiling and Regulation) Act, 1976 such as constructing requisite numbers of tenements of requisite size. The affidavit discloses that the flats have been sold at the rate which is more than what was prescribed. We have perused the orders of exemption annexed to the main petition. One order requires the owners to construct 338 tenements having area upto 40 sq.mtrs. The other order requires the applicant to construct 602 tenements having area upto 40 sq.mtrs. In the additional affidavit it is not even stated that a particular number of tenements having area upto 40 sq.mtrs have been constructed.

3. The learned counsel appearing for the applicants states that the applicants have not developed all the lands subject matter of orders of exemption. However, no details have been given in the application as to number of flats constructed. No details have been given as to how many flats having an area upto 40 sq.mtrs have been constructed. Moreover, in paragraph 11, it is admitted that though the applicants were under an obligation to sell the flat at the rate of Rs.832 per sq.ft, it is contended that the rate was changed as additional amenities were provided to the flat purchasers. Therefore, at this stage, it is impossible to record a finding that there is even a substantial compliance with the terms and conditions

incorporated in the orders of exemption under Section 20(1) of the Urban Land (Ceiling and Regulation) Act, 1976.

4. The prayer in this civil application is that Occupation Certificate should be granted to the buildings constructed by the applicants. Unless the applicants satisfy this Court regarding the compliance with the terms and conditions incorporated in the orders of exemption under sub-section 1 of Section 20 of the said Act of 1976, such a drastic relief cannot be granted.

5. Accordingly, the application is rejected.

(REVATI MOHITE DERE,J.)

(A.S. OKA,J.)