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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10800 OF 2014

Shailesh Vihar Co-operative Housing Society Ltd. ..Petitioner.

V/s.

Brihan Mumbai Municipal Corporation and Ors. ..Respondents.

Mr.Vishal Kanade i/b. Mr.Shashank Panditrao Borade for the petitioner.

Mr.A.Y.Sakhare, Senior Advocate with Mrs.Geeta Jogalekar for respondent Nos.1 and 2.

Mr.Atul Damle, Senior Advocate i/b.Mr.Anil D.Yadav for respondent No.3.

**CORAM : A.S.OKA AND
V.L.ACHLIYA, JJ.**

DATED : 13TH OCTOBER, 2015

P.C. :-

1. The contention of the petitioner is that the third respondent has produced a no objection certificate (NOC) of the petitioner for applying for permission for the change of user and the said NOC is forged and fabricated. The petitioner has made representations to the officers of the Municipal Corporation calling upon them to hold inquiry. It is pointed out that the petitioner has also set the criminal law in motion. One of the substantive prayers in the petition is that permission granted on 7th November, 2008 on the basis of said NOC be cancelled.

2. Unless there is a proper finding by a Competent Court

or Authority that the NOC is fabricated, the first and second respondents cannot take action of the cancellation of the permission as both the respondents cannot decide issue of the genuineness of the said NOC. Therefore, at this stage, this petition cannot be entertained. If it is established that the NOC is fabricated, the petitioner can always file an appropriate proceedings, including filing a fresh petition under Article 226 of the Constitution of India.

3. Subject to what is observed above, the petition is disposed of. It is made clear that this Court has not made any adjudication on the controversy about the genuineness of the NOC.

(V.L.ACHLIYA, J.)

(A.S.OKA. J.)