

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 77 OF 2016**

Rajan Dhanji & 3 Ors.	...Petitioners
<i>Versus</i>	
Nish Developers Pvt. Ltd. & 4 Ors.	...Respondents

Mr. Madhav Jamdar, *with Mr. S.S. Redekar, for the Petitioners.*
Mr. Shashikant Ghevarchand Surana, *for Respondent No. 1*
Mr. G.D. Utangale, *i/b Utangale & Co., for Respondent Nos. 2 and 3.*
Mr. H.C. Pimple, *for Respondent No. 4-B.M.C.*
Mr. Dnyaneshwar B. Chhallare, *Assistant Engineer (BD) City,*
B.M.C., is present.

**CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ.**
DATED: 17th February 2016

PC:-

1. Pursuant to the statement made earlier, Mr. Pimple has produced original records and the concerned officer of the Municipal Corporation for Greater Mumbai is present in Court.

2. We have perused the sanctioned plan. We find that the developer/builder has merely identified the shops/commercial area/portion from their original or erstwhile user. It is, therefore, not necessary nor mandated that the developer or builder must identify the specific user and qua every shop which was earlier

existing and in the demolished building. These identifications are purely for sanctioning of the plans. In such circumstances, we do not think that any right of the Petitioners is presently violated.

3. It is agreed that the developer, after construction, would hand over the buildings to a cooperative society or MHADA and to be formed by these occupants who are found to be eligible for permanent alternate accommodation. In these circumstances and when the allotment would take place thereafter and by a lottery system in which an officer of the MHADA would be present, then, all the more the apprehension of the Petitioners that they would not be allotted a shop or any commercial structure of their choice or abutting or facing the road need not be addressed.

4. By keeping open all contentions of the Petitioners in that behalf and finding that with the above clarification nothing remains in the Writ Petition, we dispose it of.

5. However, we direct that the Municipal Officer who is present in Court with the original sanctioned plan should allow the same to be inspected by Mr. Jamdar and Mr. Redekar in the Court premises today. If they desire, a photocopy of the same can be obtained by the Petitioners at their costs, charges and expenses.

(G. S. PATEL, J.)

(S.C. DHARMADHIKARI, J.)