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

WRIT PETITION No. 764 OF 2016

Sadat Builders

....Petitioner

Vs.

The City Survey Officer and Ors.

....Respondents

Mr.Harshad Gamre for Petitioner

Ms. Shobha Ajitkumar for Respondent BMC

Mr.Kishore Shetty for Respondent No.4

***CORAM : V. M. KANADE &
M.S. KARNIK , JJ.***

DATE : APRIL 6, 2016

P.C. :

1. By this petition, which is filed under Article 226 of the Constitution of India, the Petitioner is seeking the following reliefs:

“(a) For a writ of mandamus and/or any other suitable writ or order directing the Respondent No.1, Respondent No.2 and Respondent No.3 to consider the survey report and take all the necessary steps and actions to perform

their obligations and give effect to requirements of law including what is provided under Maharashtra Land Revenue Code 1966, Maharashtra Regional Town Planning Act and all the provisions of the MMC Act and including delegating and/or directing the concerned officers of the Respondent No.1 to issue separate property card in the name of MCGM which will be produced to the Ex Engineer Building Proposal to obtain the building completion certificate.

(b) (i) For a stay on proceedings in Execution Application NO.EA/07/2013 which pending before Hon'ble CONSUMER FORUM Pareland mandatory order directing the Respondent No.1, Respondent No.2 as well as Respondent No.3 to co-ordinate with each other and get the mutation entry updated in the revenue records in respect the said disputed portion of land as measured by Respondent No.1 and issue Building Completion Certificate in favour of the Petitioners.

(ii) For a further injunction restraining the Hon'ble CONSUMER FORUM Parel, Mumbai from passing any order during the pendency of this Writ Petition.

(c) For interim and ad-interim orders in terms of prayer clause (b) above.

(d) For costs of this Petition; and

(e) For such other and further reliefs as the nature and circumstances of the case may require and in the interest of justice.”

2. So far as the prayer clause (b) is concerned, this Court cannot grant stay to the proceeding which is pending before the Consumer Court since the Petitioner has an alternate remedy of approaching the National State Consumer Forum. Secondly, so far as prayer clause (a) is concerned, a direction by way writ as prayed by the Petitioner in terms of prayer clause (a) cannot be granted while exercising our writ jurisdiction under Article 226 of the Constitution of India.

3. We, however, direct the Corporation to treat this petition filed

by the Petitioner as representation and decide the same expeditiously within a period of four weeks after giving hearing to the Petitioner, on merits and in accordance with law. Writ petition is disposed of.

M.S.KARNIK, J.

V.M. KANADE, J.