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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.744 OF 2016

Shree Platinum Commercial Premises
Co-operative Society Ltd.

...Petitioner

vs

N.R. Corporation And Anr.

...Respondents

.....

Mr. N.R. Pradhan, for the Petitioner.

Mr. Ram Apte, Senior Advocate, i/b. Bhupendra Singh, for Respondent
No.1.

.....

CORAM : S.C. GUPTE, J.

DATED: APRIL 22, 2016

P.C. :

. Heard learned Counsel for both the parties. Both Counsel agree that the petition may be disposed of by this Court without indicating reasons for the order.

2. Accordingly, the impugned order of the Divisional Joint Registrar, Co-operative Societies, Mumbai Division, Mumbai, dated 11 February 2016, is set aside and Revision Application No.410 of 2015 is remanded to the Divisional Joint Registrar for a fresh hearing in accordance with law.

3. The Divisional Joint Registrar shall in particular consider whether the alleged unauthorised construction or encroachment was

carried out by the Respondent herein (the Applicant before the Divisional Joint Registrar) or its predecessor-in-title and in the event the Divisional Joint Registrar comes to the conclusion that such construction or encroachment was carried out by the Applicant before it, the consequences of such construction or encroachment.

4. It is clarified that this Court has not found fault with the conclusion of the Divisional Joint Registrar that in the event any unauthorised construction is carried out by the developer or the predecessor-in-title of the Applicant for membership, the Applicant's application of membership cannot be withheld on that ground.

5. All rights and contentions of the parties except in the case of the conclusion referred to in para 4 above, on merits, are kept open. The Divisional Joint Registrar shall not be influenced by this order insofar as these merits are concerned. The Divisional Joint Registrar shall decide the revision application as expeditiously as possible and in any event within a period of six weeks after the parties present themselves before him with this order. The parties shall appear before him with a copy of this order on 2 May 2016. Within six weeks thereof the application shall be disposed of by the Divisional Joint Registrar.

6. No order as to costs.

(S.C. GUPTE, J.)