

ssp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1666 OF 2013

Hari Niwas Co-operative
Housing Society Ltd. ...Petitioner
vs.
Mumbai Municipal Corporation
and others ...Respondents

Mr.M.W.Padgaonkar i/b Vidula Modak for the
Petitioner
Ms Geeta Joglekar for the respondent Nos.1 and 2
Mr.S.S.Shah i/b Mr.Sanjaury Gawade for respondent
No.3

CORAM : A.S.OKA, &
C.V.BHADANG, JJ.
DATE : FEBRUARY 18, 2016

P.C.:

1 Heard the learned counsel for the petitioner.
Perused the prayers made in the Suit No.1209 of 2012
filed by the petitioner. In the suit, there is a
specific challenge to the IOD and commencement
certificate. The challenge is on the ground that
IOD and commencement certificate has been obtained
on the basis of alleged fabricated documents. The
Prayer in this petition is for restraining the
Municipal Corporation from granting Occupation
Certificate and Commencement Certificate on the
basis of the aforesaid IOD and Commencement
Certificate.

2 In view of the pendency of the suit, such

relief cannot be sought by way of a petition under Article 226 of the Constitution of India.

3 If according to the case of the petitioner, the construction has been made by the concerned respondents in violation of the building permission/IOD, it will be always open for the petitioner to point out the same by filing a representation with the Municipal Authorities.

4 Subject to what is observed above, writ petition is disposed of. All contentions on merits are kept open.

(C.V.BHADANG,J.)

(A.S.OKA,J.)