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

WRIT PETITION No. 2656 OF 2014

New Paradise Co-Op. Housing Society Ltd. ... Petitioners
Vs.
State of Maharashtra & Ors. ... Respondents

Mr. Atul S. Singh, for the Petitioners.
Mr. J. S. Saluja, AGP for the Respondent – State.
Ms. Shobha Ajitkumar, for the Respondent – BMC.
Mr. S. P. Srivastava, for Respondent No. 6 and 7.

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

DATE : MARCH 21, 2016

PC.

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

“(a) that this Hon'ble Court be pleased to direct the
Respondent No. 6 and 7 to restore the premises as
per the approved plan as per the order passed by the
Asst. Commissioner, K/West Ward in its order as
the same is binding upon the Respondent Nos. 6 &
7.

- (b) That this Hon'ble Court be pleased to issue writ of certiorari and / or such other writ and / or direction in the writ of certiorari and / or other appropriate writ of this Hon'ble Court thereby ordering and directing the Respondent No. 1 to 5 to call for all the records and proceedings with regard to the Respondent No. 1 to 5 and after going through all the records and papers, be pleased to pass necessary orders and direction in the matter.
- (c) That this Hon'ble Court be pleased to issue writ of mandamus and / or such other appropriate writ in the nature of writ of mandamus and / or order and direction thereby ordering and directing the Respondent No. 1 to 5 to forthwith take demolition action in respect of illegal and unauthorized constitution constructed on the open middle terrace of the Petitioners' building situate on plot bearing City Survey No. 506 (pt.), and also direct the Respondent No. 1 to 5 register the case under the provision of MRTP Act, 1966 and take forthwith stern legal action against the Respondent Nos. 6 and 7 in the alternative and without prejudice to the above.
- (d) That pending the hearing and final disposal of the petition the Respondent No. 6 himself, his family

members, heirs, successors, administrators, assignees, servants and agents and any person / persons claiming through them be permanently retained by order and injunction of this Hon'ble Court from using, occupying, possessing and / or carrying on any activities from the illegal and unauthorized construction constructed on the open middle terrace of the Petitioners' building situate on plot bearing City Survey No. 506 (pt) constructed by the Respondent No. 6 & 7.

- (e) Interim and ad-interim reliefs in terms of prayer clauses (a), (b), (c) and (d) be granted for;
- (f) Cost for petition be provided for;
- (g) such other and further reliefs looking at the nature and circumstances of the case to be granted for.”

2. In our view, some of the reliefs cannot be granted by this Court since they involve disputed question of facts. Reserving the right of the Petitioners to approach an appropriate forum, writ petition is disposed of, by directing the Respondent – Corporation to take action in accordance with law, as expeditiously as possible.

Sd/-
[M. S. KARNIK, J.]

Sd/-
[V. M. KANADE, J.]