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

WRIT PETITION NO. 2176 OF 2017

Chetan Gangji Salia & Anr.

.. Petitioners

Vs.

MCGM & Ors.

.. Respondents

Mr. Chirag Shah i/b Jitendra Shah for the Petitioners.

Ms. Vandana Mahadik for the Respondent-MCGM.

Mr. Avinash G. Tambewagh, Ex-Engineer, Building Proposal, Eastern Suburbs present.

**CORAM : SMT. VASANTI. A. NAIK AND
MR. RIYAZ I. CHAGLA, JJ.**

DATE : 4th DECEMBER, 2017.

P. C. :

By this writ petition, the petitioners have sought direction against the respondent Nos.1 and 2-Corporation authorities to process the proposal of the petitioners for redevelopment of the building without insisting on compliance of condition no.6 in the IOD dated 20.10.2016 and grant the commencement certificate.

It is stated on behalf of the petitioner that though as per the Development Control Regulations, it would be necessary for the petitioners to point out that 70% of the occupiers have agreed for the redevelopment of the property, in the IOD dated 20.10.2016 the Corporation authorities have wrongly imposed the condition that a copy of an agreement executed between the petitioners and each and every occupier-tenant of the building for providing permanent alternate accommodation, should be submitted before requesting for the commencement certificate. It is stated that the said condition in the IOD is bad in law, in as much as it is contrary to the Development Control Regulations.

Ms. Mahadik, the learned counsel for the respondent Nos.1 and 2 states on instructions from Mr. Avinash G. Tambewagh, who is present in the Court today that though the copies of the agreement executed between the developer-owner and 70% of the tenants-occupiers is normally required under the Development Control Regulations, with a view to ensure that the petitioners should provide permanent alternate accommodation to every tenant-occupier, the condition is incorporated.

The learned counsel for the petitioners states that the petitioners have offered a permanent alternate accommodation to every occupier-tenant and agreements are executed between the petitioners and 54 out of 58 tenants. It is stated that the tenements are allocated for all the 58 tenants in the redevelopment plan. It is stated that since the agreements are executed between 54 out of 58 tenants, the percentage of the tenants-occupiers that have entered into agreements with the petitioners would be approximately 90%. It is stated that registered undertakings for providing permanent alternate accommodation to the remaining four occupiers-tenants as per the Development Control Regulations would be tendered to the Corporation within two weeks.

By accepting the statement made on behalf of the parties, we dispose of the writ petition by directing the corporation not to withhold the commencement certificate only in view of condition no.6 of the IOD if the petitioners furnish the undertaking, as aforesaid, to the corporation within two weeks. Order accordingly. No costs.

[RIYAZ I. CHAGLA, J.]

[SMT. VASANTI A. NAIK J.]