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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2607 OF 2014

Leelaraj `A' Co-operative
Housing Society Limited ...Petitioner
vs.
Municipal Corporation for
Greater Mumbai & others ...Respondents

Mr.P.M.Shah a/w Ms N.M.Dedhia and Ms Jigna Shah for
the Petitioner
Ms Geeta Joglekar for the respondent Nos.1 and 2
Mr.V.S.Kapse for respondent No.7
Mr.Sanjay R. Sitadevi Haritwal for respondent Nos.8
and 9.
Mr.M.P.Vora i/b M/s.Pramod Kumar & Co. for
respondent No.10.

CORAM : A.S.OKA, &
SMT.VIBHA KANKANWADI,JJ.
DATE : JUNE 29, 2017

P.C.:

1 Heard the learned counsel for the petitioner.
The petitioner is a society of flat purchasers in
the building in question. The grievance made in
this petition under Article 226 of the Constitution
of India is mainly about the additions and
alterations in respect of the flat No.1 and flat
No.2. The contention of the petitioner is that
there is an unauthorised sub division of flat No.1.
As far as this aspect is concerned, in the affidavit
dated 28th June 2016 filed by Shri A.B.Khandare,
Assistant Engineer, Building Proposal Department of
the Mumbai Municipal Corporation, it is specifically

stated that a permission was granted for sub division of flat No.1 into flat Nos.1A and 1B on 29th May 2013 and a Commencement Certificate is issued accordingly on 5th August 2013. The affidavit records that the flat No.2A is not in existence. There is an affidavit filed by the eighth and ninth respondents. It is stated that in the flat purchase agreement executed by the developer, the number of the flat was incorrectly mentioned as "2A" which is corrected as "2". In fact, a copy of the share certificate in respect of the flat No.2A in the name of the eighth respondent is annexed to the affidavit. The share certificate is issued on 7th April 2010. Further affidavit has been filed by the eighth respondent which is dated 18th July 2016 for clarifying the statement made by the Mumbai Municipal Corporation that flat No.2A is not in existence.

2 After having perused the affidavits on record, there is no substance in the allegations made by the petitioner as regards alleged illegal changes made in flat Nos.1 and 2.

3 As regards the allegation of change of user, there is a statement made in clause (h) of the affidavit dated 20th June 2016 filed by Shri A.B.Khandare, Assistant Engineer, (Building Proposal) that after verification, the concerned Officers are directed to initiate appropriate action. The learned counsel for the eighth respondent and the learned counsel for the tenth respondent state that

the flat Nos.1A, 1B and 2 are being used for the residential purposes only. We accept the said statement.

4 In view of above discussion and in view of the aforesaid assurance contained in the affidavit of Shri Khandare, Assistant Engineer, (Building Proposal) it is not necessary to entertain this petition.

5 Subject to what is observed above, writ petition is disposed of.

(VIBHA KANKANWADI,J.)

(A.S.OKA,J.)