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

WRIT PETITION NO.2962 OF 2014

Dheeraj Kiran Co-op. Hsg. Soc. Ltd.

... Petitioners

Vs.

The Municipal Corporation of
Greater Mumbai and Ors.

... Respondents

Mr. Abdul R. Shaikh for the Petitioners.

Ms. Pallavi Thakar for the Respondent - BMC.

**CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 12th JUNE, 2017

PC.

1 Prayer clauses (a) and (b) are the only substantive prayers in this Petition under Article 226 of the Constitution of India which read thus :-

- “a. That this Hon'ble Court may be pleased to issue a writ of mandamus and/ or any other writ and/or direction to the Respondents No.1 and 2 to issue the full Commencement Certificate and Occupation Certificate to the Petitioner's building known as Dheeraj Kiran Co-op. Housing Society Ltd., consisting of A, B & C wings situated at Survey No.424 Hissa No.2/2, CTS No.1226 (Pt) admeasuring about 6120 sq. mtrs. of village Malad, Mumbai Suburban District, forthwith.

- b. That this Hon'ble Court be pleased to further direct to Respondent No.3 and 4 to complete the compliances, if any, pending with Respondent No.2.”

2 Admittedly, an application for grant of commencement certificate and occupation certificate has not been made to the first and second respondents. The submission of the learned counsel appearing for the petitioners is that the third respondent will have to make the said application. A writ of mandamus cannot be issued against the third and fourth respondents as they are not “State” within the meaning of Article 12 of the Constitution of India. If according to the petitioners, the third respondent is under an obligation to make an application to the Municipal Corporation for grant of commencement certificate and occupation certificate, it is open for the petitioners to file appropriate proceedings for enforcing the alleged obligation.

3 Accordingly, we decline to entertain this Petition under Article 226 of the Constitution of India. However, appropriate remedies of the petitioners are kept open.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)