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

WRIT PETITION NO. 159 OF 2017

Mr. Hemant B. Dalal

.... Petitioner.

V/s

Mumbai Municipal Corporation
of Greater Mumbai and Others

.... Respondents.

Mr. Ashok Kumar Mishra for the Petitioner.

Ms. Vandana Mahadik for Respondent Nos. 1 to 3.

Mr. Harinder Toor a/w Mr. S.B. Pawar and Ms. Swati Sawant i/b M/s.
S.K. Legal Associates for Respondent No. 4.

**CORAM: B. R. GAVAI &
M.S. KARNIK, JJ.**

DATE: 21st September, 2017

P.C.:-

1] This Petition involves various disputed questions of facts. One question is with regard to the entitlement of alternative accommodation in lieu of Room No.1 in the building, which was demolished for reconstruction. It is the contention of the Respondent – Developer that the area in occupation of the present Petitioner alongwith other claimants, was only 480 sq. ft., as against which, Developer has earmarked an area of Flat No. G-3 admeasuring 495 sq.ft. However, it is the contention of the Petitioner that the area in his occupation was 59.48 sq. mtrs.

2] Another dispute is with regard to *inter-se* claim between the Petitioner, his brother and his sister. Not only this, perusal of the order dated 17/02/2014 passed by Division Bench of this Court (Coram: Anoop V. Mohta & A.A. Sayed, JJ.) in Writ Petition No. 1522 of 2013, would reveal that the present Petitioner, who appeared in person, had specifically refused to settle the matter. The Court had, therefore, recorded the statement on behalf of the Developer that an area in lieu of Room No.1 shall be provided for rehabilitation of Respondent No.4.

3] Petition, therefore, involves various disputed questions of fact and law, which cannot be decided without parties leading evidence in respect of their claims. We find that such an exercise would not be permissible under extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

4] Petition is, therefore, rejected, relegating the Petitioner to the alternative remedy available to him in law.

(M. S. KARNIK, J.)

(B. R. GAVAI, J.)