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

WRIT PETITION NO. 1244 OF 2016

Mr. Suresh Mahadev Bandekar & Ors. ... Petitioners
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. Kurup Shivaji i/b Kurup Shivaji & Co. for the Petitioners.
Mr. Chetan Kapadia & Mr. Sharad Wakchoure, i/b Kishore
Thakardas & Co. for the Respondent No.5.
Mr. U.S. Upadhyay, AGP for Respondent – State.
Ms. Shital Mane, for the B.M.C.

**CORAM: A.S. OKA AND
RIYAZ I. CHAGLA, JJ.**
DATED: 6TH MARCH 2018.

PC:-

1. This Petition was repeatedly adjourned for settlement. However, settlement could not be arrived at. This Petition involves several disputed questions of facts. One of the Petitioners wants more area than what is specified in annexure II by the Mumbai Municipal Corporation. We cannot issue a Writ of Mandamus against fourth and fifth Respondents as they are not “State”. However, the submission of the learned counsel appearing for the Petitioners is that the second Respondent Mumbai Municipal Corporation retains control as far as the implementation of the scheme under Regulation 33 (7) of the Development Control Regulations, 1991 is concerned as the

scheme is being developed on the land held by the Municipal Corporation.

2. The fourth and fifth Respondents can undertake development only after abiding by all the terms and conditions incorporated by the second Respondent-Mumbai Municipal Corporation in the Letter of Intent and the permissions. If according to the case of the Petitioners, they are not being rehabilitated in terms of the Letter of Intent or the terms and conditions on which the permissions for development were granted, it will be open for the Petitioners to make an appropriate representation to the second Respondent.

3. If such representation is made, the appropriate officer of the second Respondent after giving opportunity of being heard to the Petitioners and fourth and fifth Respondents, shall take appropriate decision thereon as expeditiously as possible and in any event within a period of two months from the date on which the representation is made. Subject to the above directions, Writ Petition is disposed of. All contentions on merits are kept open.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)