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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.933 OF 2016

Om Arihant Co-operative
Housing Society Ltd. ...Petitioner
vs.
Municipal Corporation for
Greater Mumbai & Ors. ...Respondents

Mr.P.M.Shah for the Petitioner
Ms K.H.Mastakar for the respondent-MMC
Mr.Nikhil Rajeshirke for respondent No.5
Mr.Amit Shastri, AGP for respondent No.10

CORAM : A.S.OKA, &
P.N.DESHMUKH,JJ.
DATE : FEBRUARY 7, 2018

P.C.:

1 Heard the learned counsel for the petitioner and the learned counsel for the respondents. Perused the prayers made in the petition. Real substantive prayers are the prayers(c) and (d). Prayer(c) makes a grievance that proper recreation ground as per sanctioned plan and adequate parking facility to the members of the society is not provided. There is additional affidavit filed by Shri Parag Jagannath Nikale, Sub Engineer (Building Proposal), P/South Ward of the Mumbai Municipal Corporation. As regards recreation ground and the parking space, in clause (f) of paragraph 4 Shri Nikale has stated thus:

"4(f) I say that on OCC plans 15% physical

paved RG admeasuring 311.03 sq mt is clearly shown in between building Nos.1 and 2. Further on OCC plans it is shown that total number of parking require for building Nos.1 and 2 are 42, out of which only 39 are provided. The balance 3 nos. of parking are condoned by competent authority as per Architect's/Owner's request. The total no. of parking of building No.1 (i.e existing building) is shown as 20 nos. Thus remaining 22 nos. of parking are shown to be provided for building no.2."

2 We accept the statement made in clause (f). In view of this statement, there is no reason to consider the prayer clause(c).

3 As regards prayer clause (d), except for stating that there is a watchman's cabin, no particulars of alleged illegal construction have not been set out in the petition. Therefore, at this stage, prayer (d) cannot be entertained.

4 Accordingly, we pass the following order:

(I) Statements made in clause (f) of paragraph 4 of the affidavit of Shri Parag Jagannath Nikale are accepted as statements made on behalf of the first respondent-Mumbai Municipal Corporation. Hence, it is not necessary to consider the prayer clause(c);

(II) As regards prayer clause (d), we grant liberty to the petitioner to make a representation to the Mumbai Municipal Corporation pointing out details of the alleged illegal construction. If such representation is made, the Mumbai Municipal Corporation shall take action in accordance with law;

(III) Writ petition is disposed of on above terms.

(P.N.DESHMUKH,J.)

(A.S.OKA,J.)