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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 1747 OF 2018**

Nazar Ashraf Adam Khalife and Ors. ... Petitioners
Versus
Municipal Corporation of Gr. Mumbai & Ors. ... Respondents

Mr. Prerak A. Sharma, for the Petitioners.
Mr. Chetan Kapadia with Spardha Sharma, Swapna K. i/b Tushar Goradia for the Respondent No.6.
Ms. Pallavi Thakar, for the Respondent – BMC.

**CORAM: A.S. OKA AND
 RIYAZ I. CHAGLA, JJ.
DATE: 7TH JUNE, 2018.**

PC:-

1. Heard learned counsel appearing for the Petitioners, the learned counsel appearing for the Respondent Nos. 1 to 5 and the learned counsel appearing for the Respondent No.6.
2. It is not in dispute that the Petitioners have executed agreements with Respondent No.6 developer in September, 2017. A compilation containing copies of the agreements has been tendered across the bar by the learned counsel appearing for the 6th Respondent. The learned counsel appearing for the Petitioner does not dispute that the agreements forming part of the said compilation have been executed by the Petitioners. There is no dispute that the letters of possession of temporary accommodation have been signed and executed by the

Petitioners, the copies of which are in the compilation. The learned counsel appearing for the Petitioners states that though the letters of possession have been signed by them, the Petitioners have not taken possession of the temporary accommodation.

3. The contention of the learned counsel appearing for the Petitioners is that the agreements are got executed from the Petitioners without disclosing the true facts. If that be so, the remedy of the Petitioners is before Civil Court. After having solemnly agreed to vacate the premises and after signing the possession letters of temporary accommodation, the Petitioners cannot be allowed to invoke the writ jurisdiction. Their remedy as regards the agreements is before the Civil Court which is kept open. It is obvious that the Respondents cannot dispossess the Petitioners without following due process of law from the premises in their possession in the building by the Respondent No.1 – Corporation.

4. Subject to what is stated above, the Petition is disposed of, remedies of the Petitioners are kept open.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)