

Sharayu Khot.

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

WRIT PETITION NO. 2910 OF 2015

**Jijamata Nagar Sankalp Co-Operative
Housing Society (Prop.) & Ors.**

...Petitioners

Versus

State of Maharashtra & Ors.

...Respondents

Ms. Tabassum, i/by Ms. Manisha Gawde, for the Petitioners.

Ms. Sukanta Karmakar, AGP, for the Respondent-State.

Ms. Vandana Mahadik, for the Respondent-BMC.

**CORAM : ABHAY S. OKA AND
RIYAZ I. CHAGLA, JJ.**

DATE : 16 April 2018

ORDER :

1. The learned Counsel appearing for the Petitioners seeks time on the ground that she has not received instructions.

In prayer clauses (a) to (c), the challenge is to the proposed reservation shown on the subject plot in the draft Development Plan 2034 for the City of Mumbai. The said draft has already been submitted to the State Government for sanction and that the sanction of the State Government under Section 31 of the Maharashtra Regional Town Planning Act, 1966 (for short “**MRTP Act**”.) is awaited.

2. A Letter of Intent has been issued to the Petitioners for redevelopment of a slum. In view of Section 46 of the MRTP Act, while considering the Application for grant of development permission, the proposed reservation in the draft Development Plan will have to be considered by the Planning Authority. The other substantive prayers seek relief from the Court in substance directing the Planning Authority not to consider the proposed reservation in draft Development Plan. Such a direction cannot be issued as it will be completely contrary to the provisions of Section 46 of the MRTP Act.

3. If the draft reservation on the subject plot is finally confirmed by the State Government by granting approval to the draft Development Plan 2034 in accordance with Section 31 of the MRTP Act, the Petitioners can always challenge that part of sanctioned Development Plan by filing a fresh Petition.

4. Subject to what is observed above, this Petition cannot be entertained and the same is disposed of.

5. We, however, make it clear that we had made no adjudication on the question of legality and validity of the proposed reservation.

[RIYAZ I. CHAGLA J.]

[ABHAY S. OKA, J.]