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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2863 OF 2017

Suryakant Lalji Savla & Ors. ...Petitioners
vs.
Municipal Corporation of
Greater Mumbai & others ...Respondents

Mr.Piyush Shah a/w Mr.D.Shah and Ms Meetal Savla for
the Petitioners
Mr.A.L.Patki, Addl.G.P for respondent No.4
Ms Kejali Mastakar for the respondent-MMC.

CORAM : A.S.OKA, &
P.N.DESHMUKH,JJ.
DATE : JANUARY 10, 2018

P.C.:

1 Heard the learned counsel for the petitioners, the learned counsel for the respondent Nos.1 to 3 and the learned Addl.G.P for the State. The learned counsel for the petitioners accepts that in this petition there is no challenge to the action under section 354 of the Mumbai Municipal Corporation Act,1888 which proceeds on the footing that the building has been classified as falling in 'C-1' category which requires immediate demolition. The learned counsel for the petitioners states that in fact real purpose of filing this petition is to enforce the notification dated 8th September 2017 issued by the State Government by which the Development Control Regulations for Greater Mumbai,1991 have been modified by inserting Regulation 33(7)(A). The inserted Regulation

provides that for granting FSI for reconstruction or redevelopment of dilapidated/ unsafe existing authorized tenant occupied building. It provides for grant of FSI as provided in Appendix-III-B. When the owner wants to avail of FSI under Regulation 33 (7)(A), Appendix-III-B requires him to comply with the condition of rehabilitation of the existing tenants by providing them with alternate accommodation.

2 It is obvious that if the owner or developer of the said property wants to avail the benefit of FSI under Regulation 33 (7)(A), he will have to comply with the mandatory requirements of the said Regulation as well as Appendix-III-B. Therefore, writ as prayed for in terms of prayer clause (b) can not be issued. Prayer clause(c) is for enforcing the the aforeaid notification of the Government of Maharashtra. As far as prayer clause (a) which is a substantive prayer is concerned, after following directions of this Court, the building has been already classified as 'C-1'.

3 Hence, subject to what is observed above, no relief can be granted in this petition under Article 226 of the Constitution of India. Writ petition is disposed of.

(P.N.DESHMUKH,J.)

(A.S.OKA,J.)