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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 8743 OF 2020**

Varkey Abraham Patani & Ors.

.. Petitioners

Versus

Municipal Corporation of Greater
Mumbai & Ors.

.. Respondents

Mr. Shailesh Shah, Senior Advocate a/w Mr. Mayur
Khandeparkar, Ms. Soniya Putta, Mr. Atharva Sawant & Ms.
Vaishali Chaturvedi for petitioners.

Mr. A. Y. Sakhare, Senior Advocate a/w Ms. Oorja Dhond for
MCGM.

Ms. Geeta R. Shastri, Addl. GP for State.

Dr. Birendra Saraf, Senior Advocate a/w Mr. Anirudh Hariani,
Noorudin Dhillia, Aishwarya Wagle & Anushka Merchant i/by
Hariani & Co. for respondent No.5.

**CORAM : DIPANKAR DATTA, CJ &
R. N. LADDHA, J.**

DATE : JUNE 25, 2021

PC :

1. Although serious objection to the maintainability of this writ petition has been raised by Dr. Saraf, learned senior advocate for the respondent no.5 by submitting that the petitioner intends to have a decision from the writ court in regard to title of the property in question, we are inclined to

examine a legal question that would arise for our consideration based on the submissions advanced by Mr. Shah, learned senior advocate for the petitioners.

2. Mr. Shah has invited our attention to the intimation of disapproval (IoD) dated March 4, 2020 and in particular paragraph 20 thereof, which reads as under: -

“20. That the true copy of the sanctioned layout/sub-division/amalgamation approved under the terms and conditions thereof will not be submitted before C.C. and compliance thereof will not be done before submission of B.C.C.”

3. According to Mr. Shah, the Municipal Corporation has issued Commencement Certificate in favour of the respondent no.5 without such condition in paragraph 20 having been complied with. At paragraph 24 of the reply-affidavit of the respondent no.5, we find the following statement: -

“...This Respondent has been permitted to commence construction and is required by the municipal authorities to comply with Condition No.20 of the IOD only prior to grant of the Building Completion Certificate. ...”

4. The question that would arise for decision is, whether any compliance of the nature indicated in paragraph 20 of the IoD is at all required before Commencement Certificate is issued or all such compliances are required to be made prior to the stage

of issuance of the Building Completion Certificate.

5. Mr. Sakhare, learned senior advocate appearing for the Corporation has submitted that reply-affidavit shall be filed by Monday next (June 28, 2021). The petitioners shall have time till Wednesday next (June 30, 2021) to file their rejoinder affidavits to the reply-affidavits of the Municipal Corporation as well as the respondent no.5.

6. Stand over to Thursday next **(July 1, 2021)**.

(R. N. LADDHA, J.)

(CHIEF JUSTICE)