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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO.4370 OF 2013**

|                                                            |                 |
|------------------------------------------------------------|-----------------|
| St. Xaviers Education Trust and Anr.                       | ... Petitioners |
| Vs.                                                        |                 |
| City and Industrial Corporation of Maharashtra<br>and Ors. | ... Respondents |

Mr. P.K. Dhakephalkar, Senior Advocate a/w Mr. Dharshil Jain a/w  
Ms. Nupur Desai i/by M/s. Markand Gandhi & Co., for the Petitioners.

Mr. G.S. Hegde a/w Mr. Sarthak Diwan i/by Mr. Ashutosh M. Kulkarni,  
for the Respondent No.1.

**CORAM : A.S. OKA &  
A.K. MENON, JJ.**

**DATE : 11<sup>th</sup> MARCH, 2015**

**PC.**

. Time is sought on behalf of the Petitioners on the ground that the learned Senior Counsel is not available. The submission of the learned counsel appearing for the CIDCO is that as only one Estate Officer is available, the CIDCO is unable to appoint any other officer as the Competent Authority.

2. The eviction proceedings were initiated against the Petitioners. In the eviction proceedings, the Petitioners raised an

objection by making an application dated 15<sup>th</sup> April, 2013 contending that the officer holding the post of Competent Authority before whom the eviction proceedings are pending (Mr. P.R. Rath) should recuse himself. The contention is that the officer holding the post of the Competent Authority had participated in the decision making process of the decision to evict the Petitioners.

3. The said prayer made in the application dated 15<sup>th</sup> April, 2013 has been rejected. That is the order which is challenged in this Petition under Article 226 of the Constitution of India.

4. The proceedings for eviction of the Petitioners before the Competent Authority are pending. If ultimately the Competent Authority passes an order of eviction, while challenging the order of eviction, even the order made by the Competent Authority which is impugned in this Petition can be always challenged by the Petitioners.

5. Therefore, this Petition need not be entertained at this stage. However, all contentions raised by the Petitioners in this Petition will have to be kept open.

6. Accordingly, we dispose of the Petition by passing the

following order :-

**ORDER**

- (i) The objections raised by the Petitioners which are reflected in the application dated 15<sup>th</sup> April, 2013 are expressly kept open;
- (ii) The Competent Authority shall proceed to dispose of the proceedings in accordance with law;
- (iii) In the event, the proceedings are decided against the Petitioners, while challenging the order passed by the Competent Authority, the Petitioners can always raise all contentions raised in this Petition and also take exception to the order impugned in this Petition;
- (iv) If the final order passed by the Competent Authority be adverse to the Petitioners, the same shall not be implemented for a period of one month from the date of communication of the said order to them to take steps to challenge the said order;
- (v) By keeping all the contentions of the parties expressly open, the Petition is disposed of with no order as to costs.

(A.K. MENON, J )

(A.S. OKA, J )