

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7522 OF 2015**

Andheri Juhu Lane Navbhrat CHS Ltd

..Petitioner

Vs.

State of Maharashtra & Ors

..Respondents

**Mr. P. K. Dhakephalkar Senior Advocate a/w Mr. Amol Mhatre for the
Petitioner**

**Mr. V. B. Naik, Senior Advocate a/w Ms Aparna Vhatkar for the Respondent
No.33**

Mr. G. B. Walawalkar i/b Mr. S. P Thorat for the Respondent No.2

Mr. V. D. Patil for the Respondent No.3

Mr. A. S. Patil for the Respondent No.4

Mrs. V. S. Nimbalkar AGP for the Respondent Nos.1 and 5

CORAM : R. M. SAVANT, J.

DATE : 22nd MARCH, 2016

P.C.

1 The above Petition is directed against the order dated 26-6-2015 passed by the Additional Collector (Encroachment /Removal) Western Suburbs. By the said order, the Appeal filed by the Petitioner for initiating proceedings under Sections 33 and 38 of the Slum Act, came to be rejected by the said authority and resultantly the order dated 9-4-2014 passed by the Chief Executive Officer, Mhada, came to be confirmed. The order passed by the first authority as well as the impugned order discloses that the said rejection was primarily on the ground that the High Power Committee, had granted a stay to the letter of intent issued by Mhada.

2 It is now a common ground that the High Power Committee has dismissed the Appeal filed by the some of the Respondents who are

represented by the Learned Senior Counsel Mr. Naik. In view of the said dismissal of the Appeal, the impediment by way of the consideration of the Appeal filed by the Petitioner does not remain. Since the Appellate Authority has primarily on the ground of there being a stay operating in the Appeal filed by some of the Respondents, has dismissed the Appeal, in my view, it would be just and proper to remand the matter back to the Appellate Authority i.e. the Additional Collector (Encroachment / Removal) Western Suburbs for a denovo consideration of the application.

3 Hence the following directions:

(i) The impugned order dated 26-6-2015 is quashed and set aside and the application made by the Petitioner society is relegated back to the Appellate Authority i.e. the Additional Commissioner (Encroachment / Removal) Western Suburbs, for a de novo consideration of the same.

(ii) Needless to state that the contention of the parties are kept open for being urged before the Appellate Authority.

(iii) The Appellate Authority to consider the said application by giving proper opportunity to the parties and decide the same latest by 15-5-2016. The parties to appear before the Appellate Authority on 4-4-2016 at 3.00 p.m.

3 With the aforesaid directions the Writ Petition is disposed of.

[R.M.SAVANT, J]s