

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10947 OF 2016

Shri Khwaza Mohamad Hasanmiya and ors. .. Petitioners

Vs.

The Upper Collector and ors. .. Respondents

Mr.V.P.Sangvikar, for the Petitioners.

Mr.Vikas Mali, AGP for State.

**CORAM : SHANTANU.S.KEMKAR &
M.S.KARNIK, JJ.**

DATE : 28th SEPTEMBER, 2016

P.C. :

. Learned Counsel for the petitioners undertakes to pay deficit court fees within 3 days.

2. Today when the matter came up for hearing, it has been pointed out by the learned Counsel for the petitioners that the question involved in this Petition has already been considered and decided by the Division Bench of this Court vide order dated 24/02/2016 passed in Writ Petition No. 158 of 2016.

3. Learned Counsel for the petitioners submits that the petitioners's Appeals are also pending before the first respondent viz. Appeals No. 338 of 2013 to 345 of 2013 & Appeal No. 348 of 2013 in S.R. Nos. 41 of 2012 to 46 of 2012 & S.R.No.25, 48 & 49 of 2012. Learned AGP appearing for the respondents – State submits that this Petition may also be disposed of in terms of the directions contained in the order dated 24/02/2016.

In view of this, we pass the following order.

- (i) The Petition is disposed of in terms of order dated 24/02/2016. The said order shall apply to the present matter also.
- (ii) The petitioners to appear before the Appellate Authority (first respondent) on 18/10/2016 at 11.00 a.m.
- (iii) The Appellate Authority shall then decide the petitioners's Appeals afresh after giving opportunity of being heard to the petitioners.
- (iv) The Appellate Authority shall consider each and every document produced by the petitioners and shall record the reasons while disposing of the Appeals.

(v) Till the date of communication of the order of the Appellate Authority to the petitioners, the order passed by the Deputy Collector directing the eviction of the petitioners shall not be implemented.

(vi) If any order is passed by the Appellate Authority adverse to the interest of the petitioners, the order of eviction shall not be given effect for a period of one month from the date on which the order of the Appellate Authority is communicated to the petitioners.

(vii) This limited protection will be subject to the condition that the petitioners shall file undertaking in this Court within a period of 3 weeks from today stating therein that they will not create any third party rights in respect of structure subject matter of the Petition and will not part with possession of the said structure. If such undertaking is not filed within the stipulated period, the protection granted shall cease to apply.

4. Writ Petition stands disposed of on above terms.

(M.S.KARNIK, J.)

(SHANTANU.S.KEMKAR, J.)