

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12041 OF 2016

Shri. Manohar Dattatraya Rajopadhye ...Petitioner

Versus

State of Maharashtra & Anr. ...Respondents

Ms. Pratibha D. Selke, for the Petitioner.

Ms. Kirti Kulkarni, for the Respondent-State.

CORAM : K.K. TATED, J.
DATE : 18th October 2016

P.C. :

1 . Not on board. At the request of learned Counsel for the Petitioner, the matter is taken on board for fixing early date of hearing.

2 . By this Petition under Article 227 of the Constitution of India the Petitioner challenges the order dated 19th January 2016 issued by Respondent No. 2 on his Application under Section 22(2) of the Maharashtra Slum Areas (Improvement, Clearance and

Redevelopment) Act, 1971 (hereinafter stated as “**Said Act**”). It is the contention of the Petitioner that the Authority has passed an order without issuing any notice and/or giving opportunity of hearing to the Petitioner and/or affecting party. To that effect, the Petitioner has raised grounds No. (d), (e) and (h) in the present Petition, which read thus:-

“(d) That the Respondent No. 2 has not followed the due procedure as laid down in Section 22 of the said Act, 1971 at the time of deciding the Applications of the Petitioner.

(e) That the Respondent No. 2 has decided the Application without issuing notice to the Petitioner as also concerned parties and without making summary enquiry while deciding the applications of the Petitioner.

(h) That the Respondent No. 2 has passed impugned Order in absence of giving fair opportunity of hearing to the Petitioner as well as to the concerned parties.”

3. Bare reading of the Letter-cum-Order dated 19th

January 2016 shows that Authority has rejected the Petitioner's Application under Section 22(2) of the said Act without giving any opportunity of hearing.

4. Considering these facts, following order is passed:-

- (i) Letter-cum-Order dated 19th January 2016 passed by Respondent No. 2 Deputy Collector (ENC/REN) & Competent Authority is set aside.
- (ii) The matter is remanded to the Authority to decide the Petitioner's Application under Section 22(2) of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 after giving an opportunity of hearing to the Petitioner as well as affecting parties.
- (iii) The Petition shall stand disposed of accordingly.

[K.K. TATED, J.]