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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO.92 OF 2014**

Lindwall Joseph Rodrigues

... Petitioner

Versus

The State of Maharashtra and Ors.

... Respondents

Mr. Anand Mishra i/by A.M. Saraogi for the Petitioner.

Mr. Hitesh Venegaonkar, AGP for the Respondent – State.

Mr. S.P. Thorat, for the Respondent No.3.

Ms. Trupti Puranik, for the Respondent No.4 – BMC.

**CORAM : A.S. OKA &
P.D. NAIK, JJ.**

DATE : 18th MARCH, 2016

PC.

1 Heard the learned counsel appearing for the Petitioner.

Prayer clause (a) of this Petition purportedly filed in this Public Interest
Litigation reads thus :-

“(a) that this Hon'ble Court be pleased to pass appropriate writ, order and direction directing the Respondents not to consider and/or declare the properties being the property situated at Waras Lane, Worli Koliwada and more particularly, as per the chart annexed to the Petition to be slum in any manner whatsoever.”

(underline supplied)

2. Even going by the averments made in the Petition, as of today, there is no declaration issued under Sub-Section (1) of Section 4 of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 (for short “the said Act of 1971”). By filing this PIL, the Competent Authority under the said Act of 1971 cannot be prevented from exercising its statutory power under Sub-Section (1) of Section 4. Before taking action of issuing a declaration under Sub-Section (1) of Section 4 of the said Act of 1971, the Competent Authority is required to record satisfaction as provided under Sub-Section (1) of Section 4. Any person aggrieved by the declaration made under Sub-Section (1) of Section 4 has a remedy available of a statutory Appeal under Sub-Section (3) of Section 4 of the said Act of 1971. Therefore, this is not a fit case to entertain a PIL containing the aforesaid prayer at the instance of the Petitioner. The PIL is accordingly rejected. However, we make it clear that no adjudication is made about the status of the land subject matter of this Petition.

(PD. NAIK, J)

(A.S. OKA, J)