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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8686 OF 2016

Amrik Singh Alag and Ors.

... Petitioners

vs.

Rastriya Chemicals & Fertilizers Ltd.
& Ors.

...Respondents

Mr. Yahya Ghoghari a/w Levi Rubens & Vinayak Kumbhar i/b. Vigil
Juris for the petitioners.

Mr. Anoshak Davar a/w Rushabh Seth, Ms. Pooja Batra & Neha Shah
i/b. M.S. Bodhanwalla & Co. for the respondent no.1.

CORAM : A.S.OKA, &

A. K. MENON, JJ.

DATE : 11th APRIL, 2017

PC.

1. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent no.1. At the instance of the respondent no.1, the proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short 'the said Act') have been initiated. By the impugned order, the respondent no.2 who is the Estate Officer has directed that the issue of jurisdiction raised by the petitioners and the respondent no.4 shall be decided at the time of final hearing of the proceedings.
2. The learned counsel appearing for the respondent no.1, on instructions, states that the respondent no.1 has no objection if

the respondent no.2 decides the issue of jurisdiction as a preliminary issue before finally deciding the proceedings under the said Act. We accept the said statement.

3. Even otherwise, in view of the pendency of the suit filed by the respondent no.1, the hearing of the issue of jurisdiction cannot be postponed till the final disposal of the main proceedings. Accordingly, we pass the following order:-

- (i) The impugned orders dated 12th September, 2015 and 19th September, 2015 are hereby set aside;
- (ii) We direct the respondent no.2 to decide the issue of jurisdiction raised by the present petitioners as a preliminary issue;
- (iii) All contentions on merits of the preliminary issue and on merits of the pending proceedings are expressly kept open;
- (iv) Petition is disposed of on above terms.

(A. K. MENON, J.)

(A. S. OKA, J.)