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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2479 of 2016

Mr. Laxman Bhaguji Shikhare & Ors Petitioners.

V/s.

Dy. Chief Officer/Competent Authority,
D.R.P. & Anr Respondents.

Mr. Prafull H. Salvi i/by Ms. Arunkumar and Associates for the petitioners.

Mr. Vishwajit P. Sawant for Respondent No.1.

Mr. Himanshu Takke, Additional Government Pleader -State
Respondent Nos. 2 and 3.

Mr. Bansi Gawli, Additional Collector-Mumbai is present.

CORAM : S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

DATE : 27th January, 2017.

P.C. :

1) It is stated that one appeal which is pending before the Appellate Authority has still not been decided. That appeal pertains to the issue of eligibility for permanent alternate accommodation. The petitioners have approached this Court essentially seeking a direction not to demolish their structures because such appeal is pending.

2) However, the whole process is inconveniencing Respondent No.1- Maharashtra Housing and Area Development Board Authority. It is a public project on the property and styled as the Redevelopment Project in relation to those eligible persons who have to move out and facilitate construction/development of the property. As this appeal is pending, the twenty nine persons who are the appellants in this appeal have not moved out. That has resulted in the whole project being stalled.

3) In the morning session, we called upon the learned A.G.P. to appear on behalf of respondent No.2 and the State.

4) It is stated by the learned A.G.P.after recess on instructions that there is an Appellate Authority which is in place. However, a notification, authorizing him to discharge the appellate functions as an Additional Collector, Mumbai City, is yet not issued. We do not think that pendency of such matters should result in frustration of our direction in this writ petition.

5) It is stated that Mr. Bansi Gawli has taken charge as an Additional Collector of Mumbai City. Let the subject appeals be placed before him and he shall dispose them off as expeditiously as

possible and within a period of two months from the date of receipt of copy of this order. The petitioners' Counsel and Mr Sawant appearing for Respondent No.1, both, state that none of these parties will raise the issue of jurisdiction of this Additional Collector merely because a procedural formality of issuing the Notification has not been completed. The Appellate Authority shall dispose of all the 29 appeals. We clarify that there is no expression of opinion on the rival contentions. Though the affidavits have been filed and today an additional affidavit is filed, we clarify that all the contentions are kept open. The writ petition is disposed of.

[B.P. COLABAWALLA, J.] [S.C. DHARMADHIKARI, J.]