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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1045 OF 2016
IN
WRIT PETITION NO.1762 OF 2013

Chief Officer/ President, Malkapur Nagar Panchayat, Karad, Satara	... Applicant
<u>In the matter between</u>	
Riyaz Ahmed Noormohammed Bagwan	... Petitioner
Vs.	
State of Maharashtra & Ors.	... Respondents

Mr. Umesh R. Mankapure for the Applicant.
Mr. Sandeep S. Salunkhe for the Petitioner (Orig.).
Mr. Y.S. Khochare, AGP for the Respondent Nos.1 to 3 – State.

CORAM : A.S.OKA AND
REVATI MOHITE DERE, JJ.

DATE : 11th DECEMBER 2018.
[In Chamber at 2.40 pm]

P.C. :

1 Heard the learned counsel appearing for the applicant, the learned AGP for the first to third respondents and the learned counsel appearing for the petitioner in the original writ petition. The prayer is for recall of the judgment and order dated 29th June 2015. In paragraph 4 of the said judgment and order, it is stated that the present applicant did not file a reply and therefore, as can be seen from paragraph 4, this Court proceeded on the footing that the road constructed on the said land has been constructed by the applicant – Municipal Council.

2 The learned counsel appearing for the writ petitioner on the basis of the material on record and in view of the affidavit in reply to the civil application accepts that the road is not constructed by the applicant – Municipal Council. However, he submits that as admittedly the petitioner's land is in possession of the State Government, directions be issued against the State Government to acquire the land and to pay compensation.

3 After having considered the submissions, we find that the material placed on record in this civil application shows that the observation made in paragraph 4 of the judgment may not be correct as the subject land appears to be in possession of the State Government. As the judgment and order is based on what is observed in paragraph 4, a case is made out to recall the judgment and order so that the regular Bench can hear the petition on merits. Accordingly, we dispose of the civil application by passing the following order :-

ORDER

- (i) Judgment and Order dated 29th June 2015 is recalled;
- (ii) We direct the Registry to place Writ Petition No.1762 of 2013 before the regular Court;
- (iii) Civil Application is disposed of on the above terms.

(REVATI MOHITE DERE, J.)

(A.S.OKA, J.)