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

WRIT PETITION NO. 1144 OF 2018

Shamji Khodabhai Makawana ... Petitioner
Versus
The State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION (L) NO. 865 OF 2018**

Nitin Vithal Sapkal ... Petitioner
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. Yuvraj D. Patil, for the Petitioners in both the matters.
Mr. Amit Shastri, AGP for Respondent – State in both WPs.
Ms. Geeta Joglekar for Respondent – BMC in both matters.

**CORAM: A.S. OKA AND
RIYAZ I. CHAGLA, JJ.**
DATED: 27TH APRIL 2018.

PC:-

1. Rule. The learned AGP for the Respondent No.1 and the learned counsel appearing for the Respondent Nos. 2 and 3 waives service. Considering the controversy involved in the Petition, forthwith taken up for final disposal.

2. The structures of Petitioners in both the Petitions have been demolished by the Respondent Nos. 2 and 3 on the ground that the same were situated within the distance of 10 mtrs. from main

water pipeline supplying water to the City. As the Petitioners have been held ineligible for grant of alternate accommodation, the Petitioners preferred Appeals which have been dismissed by the Appellate Authority. In Writ Petition No. 1144 of 2018, the perusal of the impugned order of the First Appellant Authority shows that a list of six documents has been referred in the order. However, no reasons are recorded by the Appellate Authority for coming to the conclusion that the said documents do not establish eligibility. As far as Writ Petition (L) No. 865 of 2018 is concerned, both the Appellate Authorities has chosen to pass final orders in a preconceived format, wherein certain blanks are filled in by hand. In the impugned orders there is no consideration of any documents and there are no findings recorded.

3. Thus for the different reasons, the impugned orders are vitiated and therefore, Appellate Authority will have to be directed to hear the Appeals afresh and decide expeditiously in the light of the fact that the structures of Petitioners have been demolished.

4. Accordingly, we pass following order:

a) The order impugned dated 9th January, 2013 (Exhibit – I) in Writ Petition (L) No. 1144 of 2018 and the orders impugned dated 17th April, 2015 and 30th April, 2015

(Exhibit 'Q' and 'Q1') in Writ Petition (L) No. 865 of 2018 are hereby quashed and set aside;

b) We direct the Petitioner in both the Petitions to appear before the First Appellate Authority on 17th May, 2018 at 11.00 a.m. The Petitioners in both the Writ Petitions are free to produce additional documents in support of their claim on the date fixed;

c) After giving an opportunity of being heard to the Petitioners, the Appellate Authority shall pass orders in Appeals preferred by Petitioners in both the Petitions as expeditiously as possible and preferably within a period of three months from the date fixed for appearance of the parties;

d) We make it clear that the decision will have to be taken by the Appellate Authority within the time frame as the Petitioners' structures have been already demolished;

e) Rule is made partly absolute in above terms. No order as to costs.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)