**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**BENCH AT AURANGABAD**

**WRIT PETITION NO. 12368 OF 2016**

Modern Shikshan Prasarak Mandal
Through its President
Shaikh Abbas Sk. Lal and another .. Petitioners

**Versus**

The State of Maharashtra and others .. Respondents

Shri R. D. Sanap, Advocate for Petitioners.
Shri P. K. Lakhotiya, A.G.P. for Respondent Nos. 1 to 4.

**CORAM : S. V. GANGAPURWALA AND**
**A. M. DHAVALE, JJ.**
**DATE : 22ND APRIL, 2019.**

**FINAL ORDER :**

. On 12th April, 2019 we had passed the following order.

> 1. We had heard Mr. P. M. Shah, learned Senior Advocate for the petitioner on 01.04.2019 at length. We expressed our opinion that we are not accepting the contention of the petitioner that the valuation of the year - 2006 is required to be considered. The earlier application was rejected, even the appeal filed before the Maharashtra Revenue Tribunal is withdrawn and subsequently fresh application was filed in the year – 2013. The authority had passed the order considering the valuation of the year 2014. We had expressed our opinion that the valuation as

> of the year – 2013 only will have to be considered and not of the year - 2006. Time was sought on 01.04.2019 and the matter was kept on 05.04.2019. On 05.04.2019, Mr. Sanap, learned counsel for the petitioner sought time. We had kept the matter today. Today none appears for the petitioner.
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> 2. As none appears for the petitioner, we place the matter on 18.04.2019 for passing orders on merits.

2. Today Mr. Sanap, the learned advocate for the petitioner is present.

3. We had already expressed the order that we had opined to pass while passing the order on 12th April, 2019.

4. Taking the stock of the facts in the matter, it is clear that the petitioner had initially filed an application in the year 2006. Said application was rejected. The appeal was filed before the Maharashtra Revenue Tribunal. Same was withdrawn. Withdrawal amounts to dismissal. Subsequently fresh application was filed by the petitioner in the year 2013. The authority considered the said application under order dated 11.07.2014 and directed the petitioner that the market value of the year 2014 would be considered. The petitioner was directed to pay 75% of the market value as in the year 2014.

5. The application was made in the year 2013. We have held

in other matters that the date on which the application is made has to be considered as the relevant date for considering valuation. Reference can be had to the judgment and order of this Court **dated 20th September, 2017 in Writ Petition No. 3019 of 2016.** We have passed the earlier judgment relying on the judgment of the Apex Court in a case of **Union of India and another Vs. Mahajan Industries Limited and another** reported in ***(2005) 10 SCC 203***.

6. Considering the above, the impugned order is modified to the extent that the valuation of the property shall be considered as on the date of fresh application that is the year 2013. The writ petition accordingly is disposed of. No costs.

**[A. M. DHAVALE, J.]** **[S. V. GANGAPURWALA, J.]**

*bsb/April 19*