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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6618 OF 2019

Dharmaraj P.Kanojia

..Petitioner.

V/s.

The State of Maharashtra & Ors.

..Respondents.

Mr.Suresh Sabrad with Neha Parte for the petitioner.

Mr.R.P.Kadam, AGP for respondent Nos.1 to 4.

Mr.Vikram Pai for respondent No.5.

Mr.Vinod Mahadik for respondent No.6.

Mr.S.N.Gawathe, Naib Tahsildar, office of Deputy Collector (E&C),

Andheri present.

CORAM: NITIN W.SAMBRE, J.

DATE : JUNE 18, 2019

P.C.:-

Heard respective counsel.

2. The order passed in appeal No.1119/2018 preferred by the petitioner under the provisions of section 35(1A) of Maharashtra Slum Area (Improvements, Clearance and Redevelopment) Act, 1971 ('the Act' for short) is the subject

matter of challenge. One of the contention raised by the petitioner is after the matter was fixed for hearing on a particular date, the same was advanced without notice to the petitioner and order impugned came to be passed.

3. On this issue, learned AGP was directed to produce the original record in regard to the issue of passing the order impugned. A statement is made by learned AGP, on instructions of Mr.S.N.Gawathe, Naib Tahsildar, office of Deputy Collector (E&C), Andheri, “before passing the order impugned by advancing the date of hearing, no notice was served on the petitioner”. In view of above, learned AGP concedes that the matter can be send back to the appellate authority for deciding the same afresh.

4. Since the statement made by learned AGP is taken on record and is based on instructions of the authority, in my opinion, the petition needs to be allowed. The order impugned passed by the second appellate authority i.e. the Grievance Redressal Committee on November 16, 2018 and the order passed by the authority under section 35 of the Act on September 14, 2018 are hereby quashed and set aside.

5. The matter stood restored to the file of Additional

Collector–Competent Authority who deals with the eviction proceedings under section 35 of the Act.

6. The parties agree that they shall appear before the first appellate authority on July 15, 2019. The appellate authority is expected to decide the appeal preferred under section 35(1A) of the Act afresh within a period of three months from the date of appearance.

7. With the above observations, the petition stands disposed.

(NITIN W.SAMBRE, J.)