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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2114 OF 2015

Madhukar Sadashiv Kelkar & Ors. ..Petitioners.

V/s.

The Chief Executive Officer & Ors. ..Respondents.

Mr.Santosh Suryawanshi for the petitioners.

Mr.Abhijeet A.Desai for respondent No.1.

CORAM : NITIN W.SAMBRE, J.

DATE : AUGUST 2, 2019

P.C. :-

Against an inquiry under sub-section (C) of section (3) of the Slum Areas (Improvement and Clearance) Act, 1971 ('the Slum Act' for short), on December 20, 2014, the petitioners preferred an appeal under section 4 of the Slum Act, which came to be dismissed by the impugned order passed on December 20, 2014. The following issues were framed in appeal preferred by the petitioner :-

“(i) Whether the appellant is aggrieved person as contemplated under section 3(C)(2) of the Slum Act ?

(ii) Whether appellant having right and title for any connection in the disputed party ?

(iii) Whether the respondent No.1 has followed the proper procedure of law while issuing impugned notification ?

(iv) Whether impugned notification requires interference ?

(v) What order ? "

2. The Tribunal has proceeded on the basis that petitioner cannot be termed to be the aggrieved persons. As such dismissed the appeal. The fact remains that the names of the petitioners are not mutated against the property in question.

3. The Tribunal has lost sight of the fact that the petitioners are trying to establish their claim by stepping into the shoes of their parents who were claiming to be in possession of the property in question since 1954. Respondent No.2 during the hearing may justify his entire right to the property but that by itself would not take away the right of the petitioners in questioning the notification dated March 26, 2012.

4. In the aforesaid background, the order impugned passed by the Slum Tribunal dated December 20, 2014 is not sustainable and as such is quashed and set aside.

5. The Appeal No.37/2013 preferred by the petitioners stood restored to the file of the Slum Tribunal. The petitioners to complete their pleadings, including that of placing all the additional documents, if any, so as to establish their claim by August 31, 2019. It is expected of the Slum Tribunal to decide the appeal of the petitioners expeditiously and in any case within a period of six months from the date of completion of pleadings by the petitioners.

6. The petition stands allowed in the above terms.

(NITIN W.SAMBRE, J.)