

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4310 OF 2015

Pandurang Dhondiba Katkar	]
Aged__ years, Occupation : Business	]
Having his address at Shop no.2	]
CTS no.825, R.T.O. Road,	]
Near Satataraka Co-operative Housing	]
Society, 4 Bungalows, Andheri (West),	]
Mumbai 400 053	].. Petitioner

Vs.

1. The Dy. Collector (Encroachment/ Removal) And Competent Authority, Western Suburbs,	]]]
Room No.65, Griha Nirman Bhuvan, Bandra (East), Mumbai 400 051.	]]]
2. The Tahsildar (Enc./Rem.) The office of the Dy. Collector, (Enc./Rem.) And Competent Authority, Room no.65, Griha Nirman Bhuvan, Bandra (East), Mumbai 400 051.	]]]]]]]
3. Federation of Co-op. Hsg. Societies, “Ekta Association”, Registered under Public Trust Act having address at C/o, Guatam Co-op. Housing Society Ltd., Plot No.58, Near R.T.O., Four Bungalows, Andheri-West, Mumbai 400 053	]]]]]]]]]].. Respondents

**ALONG WITH
WRIT PETITION NO. 4311 OF 2015**

1. Manikantan Krishnan Nair	]
Aged 49 years, Occupation : Business	]
Having his address at Shop no.1	]
CTS no.825, R.T.O. Road,	]
Near Satataraka Co-operative Housing	]
Society, 4 Bungalows, Andheri (West),	]

]... Petitioner

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(Encroachment and Removal), Andheri on 7th/9th April 2015 directing the petitioner to appear before the concerned authority on 23rd April 2015 and submit necessary documents demonstrating authorization to raise construction. At the same time, the petitioner was directed to remove the alleged unauthorized construction raised on the Government land within a period of seven days in view of the directions which have already been issued by the competent authority on 28th September 2012.

3. The petitioner contends that the notice impugned dated 7th/9th April 2014 is founded on the directions issued on 28th September 2012 by the Deputy Collector, (Encroachment/Removal) and Competent Authority, which have already been set aside by the appellate forum on consideration of the appeal. The appeal came to be partly allowed on 5th February 2011. The appellate authority, viz., Administrator and Divisional Commissioner, Konkan Division, Mumbai, while dealing with the appeal presented by the petitioner has quashed and set aside the order passed by the Deputy Collector (Encroachment/Removal) and Competent Authority, and has remitted the matter back to the said authority for reconsideration. It has also been directed by the appellate authority that while issuing the orders in pursuance to the remand, the Competent Authority has to observe the directives issued by the High Court on 25th July 2012 as well as the provisions of the relevant acts shall be taken into consideration and final

order be passed within a period of one month from the said order.

4. It has been pointed out that post-remand of the matter, the appellate authority-the Deputy Collector (Encroachment/Removal) and the Competent Authority has not dealt with the matter and same remained pending with the concerned authority. The Tahasildar (Encroachment and Removal), Andheri has issued the instant notice without considering the material available on record in the case, with a direction to the petitioner to remove the unauthorized construction.

5. The learned AGP appearing for the State has tendered a communication dated 14th February 2019 issued by the Deputy Collector (Encroachment/Removal), Andheri-1. The same is taken on record and marked 'X' for identification. It has been undertaken by the concerned authority that he would take appropriate steps and after extending opportunities to the parties of being heard, pass orders within a period of three months' from the date of the communication.

6. The petitioner shall appear before the Deputy Collector, (Encroachment/Removal) and Competent Authority, Andheri on 22nd April 2019 and produce relevant documentary evidence to support his claim. The Competent Authority, after extending opportunity of hearing to the petitioner, shall proceed to take a decision in the matter as expeditiously as

possible and preferably within a period of three months from the date of appearance of the concerned parties. The notices impugned in these petitions is quashed and aside.

7. Rule in above petitions made absolute to the extent as specified above.

8. In view of the disposal of the writ petitions, pending civil applications, if any, do not survive and accordingly stand disposed of.

It is clarified that we have not considered the merits and the contentions of the parties appearing before us, and it would be open to the Deputy Collector, (Encroachment/Removal) and Competent Authority to take decision on merit and in accordance with the provisions of law.

[N.J. JAMADAR, J.]

[R. M. BORDE, J.]