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Bharat
D. Pandit

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6865 OF 2019**

Shri Vishanu Babulal Panchal

.... Petitioner.

V/s

The Chief Secretary,
Housing Dept. Mantralaya and Others

....Respondents.

Mr. Kamalakar L. Koli alongwith Ms. Vaishali Benere for the
Petitioner.

Mr. S.S. Panchpor, AGP for the State.

CORAM: NITIN W. SAMBRE, J.

DATE: 31st July, 2019

P.C.:

1] The Deputy Collector (Encroachment) on 20/07/2016 ordered that name of the Petitioner be deleted from Annexure-II and same be replaced with the name of Respondent No.6. The said order, I am informed, was the subject matter of challenge before the Additional Collector (Encroachment) in appeal under Section 35. The said appeal was allowed on 10/12/2018 by the order impugned wherein order of remand is passed in which earlier order dated 20/07/2016 referred supra, came to be quashed and set aside. The Additional Collector, by the order impugned, permitted Respondent No.6 to

move an application alongwith appropriate evidence for deciding his claim qua his entitlement to be added in Annexure-II, which is questioned by the Petitioner in the Petition.

2] The submissions are, claim of the Petitioner for inclusion of his name in Annexure-II after deciding his eligibility is pending vide request letter dated 16/12/2015. According to the learned Counsel for the Petitioner, once name of the Petitioner was also included in Annexure-II, order of remand ought not to have been passed.

3] The learned AGP supports the order impugned.

4] What can be noticed from the claim put-forth by the Petitioner and Respondent No.6 is, before the authorities below they are claiming their entitlement to the same tenement by virtue of they being encroachers prior to 01/01/2000. After the order of remand is passed, what is expected is, while deciding the claim of Respondent No.6, as directed by the order impugned, the claim of the Petitioner be also considered as was put-forth by him for his entitlement for

allotment, which is pending since 16/12/2015, as reflected in Exhibit-A to the Petition.

5] As such, Petition can be conveniently disposed of without interfering with the order impugned i.e. of remand with only clarification that, after remand, proceedings be decided at the behest of Respondent No.6 with the claim of the Petitioner which is pending consideration by virtue of his application dated 16/12/2015 about his entitlement.

6] Petition, as such, stands disposed of in the aforesaid terms.

(NITIN W. SAMBRE, J.)