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

CIVIL WRIT PETITION NO.5736 OF 2018

Shri Satish Namdeo Waykar & Ors.

..Petitioners

Vs

Shri Chandrashekhar Khandu Sonawane & Ors.

..Respondents

Mr. Uday B. Nighot for the Petitioner.

Ms. M.S. Bane, AGP for Respondent Nos.9,10 and 11.

CORAM : A.S.GADKARI, J.

DATE : 3rd September 2019.

P.C.:

1] Heard Mr. Nighot, the learned counsel for the Petitioner.

2] The note put up by the Registry indicates that, as per Bailiff's report, the respondent Nos.1 to 8 have been duly served. Despite service, none appeared for them. Learned AGP appears for Respondent Nos.9, 10 and 11.

3] By the present petition, the petitioners have impugned the Judgment and Order dated 30.4.2015 passed by the Sub-Divisional Officer, Junnar Ambegaon Sub Division, Manchar (Pune) in Appeal No.SR/113/2014.

Perusal of the impugned Judgment and Order passed by the Sub-Divisional Officer, Junnar Ambegaon Sub Division, Manchar (Pune) dated 30.4.2015 would indicate that, in two paragraphs the concerned Authority has recorded written submissions of the parties therein and in the penultimate paragraph in two sentences

has recorded its conclusion, one of which is the stay granted to the Order of Tahasildar is vacated and in another sentence directed the respondents to pay compensation. Thereafter the operative part of the Order is passed which is inconsonance with earlier two sentences/paragraphs mentioned hereinabove.

It further appears that, the Appellate Authority has not analysed the evidence available on record and has recorded its cryptic conclusions as mentioned hereinabove. It is the settled position of law that, the first Appellate Court is the last fact finding Court. The Appellate Authority has failed to comply with the said legal dictum.

4] In view thereof, the Judgment and Order dated 30.4.2015 passed by the Sub-Divisional Officer/respondent No.10 is hereby quashed and set aside and the Appeal bearing No.SR/113/2014 is restored to file of the Sub-Divisional Officer, Junnar Ambegaon Sub Division, Manchar (Pune) for its decision afresh as per the provisions of law after hearing the concerned parties to the said Appeal before passing final orders.

The respondent No.10 is directed to decide the appeal within a period of six months from the date of receipt of this Order.

5] Ad-interim relief granted by this Court by its Order dated 31.8.2017 to remain in force till the decision of the appeal by the respondent No.10.

6] Writ Petition is allowed in the aforesaid terms.

All the concerned to act on authenticated copy of this Order.

(A.S.GADKARI, J.)