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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.263 OF 2019

Raju V. Desai	...Petitioner
V/s.	
The Additional Collector (Enc/Rem)	
Mumbai Suburban District & Ors.	...Respondents

Mr.Atul Damle, Senior Counsel with Mr.Vimlesh Singh for the Petitioner.

Mr.Kedar Dighe, A.G.P. for the State – Respondent Nos.1, 2 and 4.

Ms.Vrushali Maindad I/b Mr.Abhijeet Desai for the Respondent No.3.

CORAM : R.D. DHANUKA, J.

DATE : 6TH JUNE, 2019.

P.C. :-

1. By this petition filed under Article 226 of the Constitution of India, the petitioner impugned the order dated 1st September, 2018 passed by the respondent no.1 and the order dated 5th January, 2019 passed by the respondent no.1 (Appellate Authority) dismissing the said appeal bearing Slum Appeal bearing No.203 of 2018.

2. The petitioner claims alleged rights in the structure in question which is Flat No.312, in Gomes A Co-operative Housing Society Limited, Near Naaz Hotel, Naupada, LBS Marg, Kurla (West), Mumbai – 400 070 through the respondent no.5, who was allottee of the said flat by the authority. It is not in dispute that the respondent

no.5 had transferred his rights in favour of the petitioner though there was bar from transferring the said flat without obtaining prior permission of the authority. Both the authorities have considered this crucial aspect and have rejected the proceedings filed by the petitioner.

3. Mr.Damle, learned senior counsel for the petitioner fairly admits that the respondent no.5 had not obtained any such prior permission in favour of the petitioner. It is not in dispute that the respondent no.5, whose allotment was also cancelled in the tenement in question for not obtaining prior permission has not impugned the order to the knowledge of the petitioner.

4. Both the impugned orders are reasoned orders. I do not find any perversity in the findings rendered by the authorities below. The writ petition is devoid of merit and is accordingly dismissed. There shall be no order as to costs.

5. At the request of Mr.Damle, learned senior counsel for the petitioner, *ad-interim* protection granted by this Court to continue for a period of three weeks from today. If any Special Leave Petition is filed by the petitioner, a copy thereof shall be served upon the respondents in advance.

(R.D. DHANUKA, J.)