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

WRIT PETITION NO.917 OF 2013
WITH
NOTICE OF MOTION NO.154 OF 2018

Ravindra S. Chavan & Ors.	...Petitioners
V/s.	
The Estate Manager (WS), MHADA & Anr.	...Respondents

Mr.N.V. Walawalkar, Senior Counsel with Mr.Suresh M. Sabrad, Mr.Amey C. Sawant, Mr.K.D. Rathod, Mr.Kevin Chettiyar and Mr.Vikram N. Walawalkar i/b Mr.Vivek Salunkhe for the Petitioners.

Mr.Shankar P. Thorat for the Respondent No.1.

Ms.Archana Khan i/b M/s.LMJ Law Practice for the Respondent No.2.

Mr.Manoj Omprakash Suri – Petitioner No.2 present in Court.

Ms.Sneha Manoj Suri – Petitioner No.4 present in Court.

Ms.Katy Nari Maneckji – Respondent No.2 present in Court.

CORAM : R.D. DHANUKA, J.
DATE : 20TH SEPTEMBER, 2019.

P.C. :-

1. Mr.Walawalkar, learned senior counsel for the petitioners and Ms.Khan, learned counsel for the respondent no.2 on instructions from the respondent no.2, who are present in Court agree for the following order :-

a). The order dated 24th January, 2013 passed by the Appellate Court in Appeal No.7 of 2012 and the order dated 14th March, 2012 passed by the Competent Authority in Case No.6 of

2009 are set aside. The proceedings in Case No.6 of 2009 are restored before the Competent Authority. The Competent Authority shall decide the matter afresh based on the pleadings and documents already forming part of the record and also additional pleadings, documents and the evidence that would be relied upon by both the parties.

b). The parties are at liberty to file additional pleadings and to lead additional evidence before the Competent Authority. The additional pleadings, if any, proposed to be filed by the petitioners and the respondent no.2 shall be filed within four weeks from today with a copy to be served on other side. Learned Competent Authority shall give an opportunity to lead additional evidence to both the parties. Both the parties would be at liberty to take inspection of the file and copy of the documents pertaining to the subject matter of this notice lying with the Competent Authority and the file that would be produced by the World Bank Assisted Authority on payment of requisite charges if any.

c). Learned Competent Authority shall make an endeavor to dispose of Case No.6 of 2009 expeditiously and not later than six months from the date of commencement of further evidence, if led by the parties.

d). Both the parties to co-operate with each other and also with the learned Competent Authority in deciding the matter within

the time prescribed by this Court.

e). Learned Competent Authority shall decide the matter on its own merit without being influenced by the observations made and the conclusion drawn in the order dated 14th March, 2012 passed in Case No.6 of 2009 and the order dated 24th January, 2013 passed by the Appellate Court in Appeal No.7 of 2012 and on the basis of the pleadings, documents and the evidence already forming part of record and the additional pleadings and the documents and the additional evidence if led by the parties.

f). The original records of the subject matter of the Bungalow stated to be in possession of the World Bank Assisted Authority of MHADA shall be made available before the learned Competent Authority before commencement of the proceedings in Case No.6 of 2009. The Competent Authority is directed to return the original record to the Assisted Authority of MHADA within two weeks of conclusion of such proceedings by the Competent Authority.

g). The allegations and the counter allegations made if any against any of the advocates in this matter stand withdrawn.

h). All the contentions of all the parties raised before the two Authorities below and in this proceeding are kept open.

i). The parties are at liberty to convey this order to the said

World Bank Assisted Authority of MHADA for the purpose of compliance of this order and for furnishing the original records to the learned Competent Authority as directed aforesaid.

j). Mr.Walawalkar, learned senior counsel appearing for the petitioners states that the petitioner nos.2 and 4 along with their family members are occupying the suit bungalow and would not create any third party rights and/or will not part with possession during the pendency of the proceedings before the Competent Authority and thereafter if the order passed by the Competent Authority is adverse against the petitioners. Statement is accepted during the pendency of such proceedings.

k). If any adverse order is passed against the petitioners by the Competent Authority, the same shall not be implemented for a period of four weeks from the date of communication of the said order.

l). It is made clear that this Court has not expressed any views on the merit of the matter.

2. The writ petition is disposed of on aforesaid terms. There shall be no order as to costs.

3. In view of disposal of the writ petition, Notice of Motion No.154 of 2018 does not survive and is accordingly dismissed.

4. Both the parties are directed to remain present before the Competent Authority at 11.00 a.m. on 4th November, 2019 for further directions.

5. In view of the disposal of the writ petition, the documents furnished by Mr.Thorat, learned counsel for the respondent no.1 which were kept in the safe custody of the learned Prothonotary & Senior Master of this Court are returned back to the learned counsel for the respondent no.1.

(R.D. DHANUKA, J.)