

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 431 OF 2018**

Poonam Mahesh Shitap	...Petitioner
Versus	
The Tahsildar, Borivali & Ors.	...Respondents

Mr. Sujay Gawade a/w Ms. Anita Dubey i/b Shree & Co. for the Petitioner

Mr. Amit Shastri, A.G.P for the State/Respondent Nos. 1 to 5

**CORAM : B. P. DHARMADHIKARI &
REVATI MOHITE DERE, JJ.
FRIDAY, 4th JANUARY 2019**

P.C. :

1 We have heard respective counsel. Perused the notice dated 30th May 2017 and appellate order dated 29th September 2017 passed by respondent No. 2. Appellate order states that notice dated 30th May 2017 is not issued under the provisions of Maharashtra Slum Areas (Improvement, Clearance and Development) Act, 1971. Notice issued by Tahsildar on 30th May 2017, however, clearly makes reference to Section 3Z-2(4) of the said Act.

2 Identical controversy has been looked into by this Court in Writ Petition No. 430 of 2018 on 21st December 2018.

3 We have perused reply filed on behalf of respondent No. 1. It is sworn by Mr. Vinod Dhotre, Tahsildar, Borivali.

4 As the notice itself contains reference to 1971 Act (*supra*), reason recorded by Appellate Authority is unsustainable. Hence, adopting the course as per order dated 21st December 2018, we set-aside the appellate order dated 29th September 2017 and restore appeal back to file of respondent No. 2. We make it clear that we have not recorded any finding on maintainability of that appeal.

5 Petitioner to appear before respondent No. 2 on 14th January 2019. Respondent No. 2 shall hear petitioner and taken fresh decision as per law within next eight weeks.

6 Accordingly, writ petition is partly allowed and is disposed of.

REVATI MOHITE DERE, J.

B. P. DHARMADHIKARI, J.