

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 977/2014

(SANDEEP GHANSHYAM CHOUDHARI & ANOTHER **VERSUS** STATE OF MAHARASHTRA & ANR)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Rajnish Vyas, counsel for the petitioners.
Mrs. B.H. Dangre, G.P. for the R-1 & 2.

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATE : JULY 10, 2015.

By this petition, the petitioners seek a declaration that the proceedings in respect of the petitioners' land under the Urban Land (Ceiling and Regulation) Act, 1976 have abated in view of the provisions of Urban Land (Ceiling and Regulation) Repeal Act, 1999. The petitioners seek a direction to the respondent no.2 to delete the entry in the name of the Government, from the revenue records.

The petitioner no.2 was the owner of the lands admeasuring 1.42 Hectares in Survey No.18 and 0.28 Hectares in Survey No.16 at Mouza Wanadongri. The petitioner no.1 had purchased the said property from the petitioner no.2 during the pendency of the proceedings under the Urban Land Ceiling Act. In terms of the provisions of the Act of 1976, the lands admeasuring 29400 square meters from Survey No.49, 14200 square meters from Survey no.82 and 1383.61 square meters from Survey No.85 were declared surplus. The notification under Section 10(3) of the Act of 1976 was issued on 08.11.2007. It is the case of the petitioners that despite the notice issued by the respondents under Section 10(5) of the Act of 1976, the possession of the lands of the petitioners were not lost and the petitioners are still in possession of the land. Since the petitioners are still in possession of the land, the petitioners seek a declaration that the proceedings under the

Urban Land (Ceiling and Regulation) Act, 1976 have abated in view of the provisions of Section 4 of the Act of 1999.

Mrs.Dangre, the learned Government Pleader, states by relying on the affidavit-in-reply that after the notice was issued under Section 10(5) of the Act of 1976, the possession of the land was obtained by the concerned Talathi. It is stated that though the possession of the land was secured by the Government, inadvertently, the name of the State of Maharashtra was not recorded as owner in the 7/12 extract. It is, however, fairly admitted that the original Record & Proceedings does not bear the possession receipt to show that the possession of the land was secured from the petitioners.

On hearing the learned counsel for the parties and on a perusal of the original Record & Proceedings, it appears that the respondents had failed to secure the possession of the land from the petitioners after the issuance of notice under Section 10(5) of the Act of 1976. Hence, in view of the provisions of Section 4 of the Act of 1999, the proceedings initiated against the petitioner no.2 under the Act of 1976 have abated. It would be necessary to direct the State Government to delete the entry, in the name of the State Government from the revenue record if the name of the State Government is so recorded.

Hence, for the reasons aforesaid, the writ petition is allowed. It is hereby declared that the proceedings in respect of the surplus land of the petitioner no.2 under the Act of 1976 have abated in view of the provisions of the Act of 1999 as the petitioners are still in possession of the land. If the name of the State Government is entered into the revenue records, the said entry should be deleted.

Order accordingly. No costs.

JUDGE

JUDGE