

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

WRIT PETITION NO. 4813/2014

(YOGIRAJ DOMAJI RAGIT & OTHERS **VERSUS** STATE OF MAHARASHTRA & OTHERS)

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

Court's or Judge's orders

Shri P.V. Vaidya, counsel for the petitioners.
Shri N.R. Patil, A.G.P. for the respondents.

CORAM : SMT. VASANTI A. NAIK AND
A.S. CHANDURKAR, JJ.

DATE : AUGUST 11, 2015.

By this petition, the petitioners seek a declaration that the proceedings, including the notification and notice under Section 9, 10(1) and 10(3) of the Urban Land (Ceiling and Regulation) Act, 1976 in respect of the land of the petitioners in Khasra No.86/1 have abated in view of the provisions of Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999.

Proceedings were initiated in respect of the lands of the petitioners bearing Khasra No.86/1 under the provisions of the Urban Land (Ceiling and Regulation) Act, 1976 and a total area of 12492.80 square meters of land in survey no.86/1 was declared surplus and notices under section 10(1) and 10(3) of the Act of 1976 were issued. According to the petitioners, the possession of the land was not secured by the respondents and, hence, the proceedings under the provisions of the Act of 1976 are abated in view of the provisions of Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999. The petitioners have sought the aforesaid declaration as the petitioners claim to be in possession of the land in Khasra No.86/1, that was declared surplus.

Shri Patil, the learned Assistant Government Pleader, has tendered an affidavit-in-reply in the Court, today. There is nothing in the affidavit-in-reply to show that possession of the surplus land in Khasra no.86/1 was actually secured by the respondents. It is fairly stated on behalf of the respondents by the learned Assistant Government Pleader after perusal of the Record & Proceedings in the U.L.C. Case that there is no material on record, much less, any material in the form of a possession receipt or any other document to show that the possession of the land in Khasra No.86/1 was secured by the respondents.

It is apparent from the affidavit-in-reply in reply filed on behalf of the respondent no.2 and the statement made by the learned Assistant Government Pleader that the possession of the surplus land in Khasra No.86/1 was not secured by the respondents till the coming into force of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 and even thereafter. Since the petitioners have not lost the possession of the surplus land in Khasra No.86/1 to the extent of 12492.80 square meters, it would be necessary to grant the declaration as sought by the petitioners.

Hence, for the reasons aforesaid, the writ petition is allowed. It is hereby declared that the proceedings in respect of land admeasuring 12492.80 square meters from Khasra no.86/1 (Old) and Khasra nos.34 to 37 (New) have abated in view of the provisions of Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999. The respondents are, therefore, directed to delete the name of the State Government from the 7/12 extracts and incorporate the names of the petitioners, in the same.

Order accordingly. No costs.

JUDGE

JUDGE