

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7991/2015
WITH
CIVIL APPLICATION NO.11941/2015

Vijay Govind Jamadar & others.

..Petitioners..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri Anandsingh Bayas, Advocate for Petitioners.

Smt.A.V.Gondhalekar, AGP for Respondent Nos.1 to 5.

Shri S.N.Lale, Advocate for Respondent No.6.

Shri S.P.Urgunde, Advocate for applicant in CA
No.11941/2015.

.....

CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.

DATE: 20.12.2016

ORDER :

1] This Court under the order dated 12.3.2014 in Writ
Petition No.2094/2014 had directed the State authorities
in the said writ petition to take appropriate steps in
the matter for removal of encroachment over the
Government land and for protection of the Government
property.

2] Pursuant thereto, the Tahsildar, AUSA, issued notices to various persons including the petitioners and came to the conclusion about the encroachments on behalf of the petitioners and order came to be passed by him after hearing the petitioners on or about 24.7.2015. The petitioners have assailed the said order in the present writ petition.

3] Mr. Bayas, learned counsel for the petitioners, submits that the writ lands are owned by the petitioners. The same are agricultural lands and not house properties. The respondent - State under the garb that in the earthquake that had taken place, the houses were damaged and as such those persons whose houses were damaged in land Survey Nos. 2, 2/1, 3, 107 and 179-A, 179-B, 179-C and 179-D were allotted the houses in the new township and these houses and the land beneath the houses is to be taken in possession by the Government under the scheme i.e. Government resolution dated 3.11.1993 is taking the agricultural land of the petitioners. According to the learned counsel, the writ lands in respect of which the grievance is made by the petitioners are not the lands beneath the houses, which were demolished, but are the

independent lands and these lands cannot be taken in possession by the respondents.

4] Smt.Gondhalekar, learned AGP submits that under the Government resolution dated 3.11.1993, the State had come out with a policy considering the exceptional circumstances. In the earthquake, large number of houses were demolished. The Government as a welfare measure gave new houses in the new township to those persons in lieu of the land beneath the houses which were damaged. The petitioners are occupying the said land. The Tahsildar has properly considered the said aspect. The details given before this Court would show that it is either the petitioners or the petitioners' predecessors have entered into illegal transactions. If the petitioners want to prove their title, they have to approach the civil Court.

5] Mr.Urgunde, learned counsel appears for the applicant - intervenor in Civil Application No.11941/2015 and supports the arguments of the learned AGP.

6] There is no dispute that considering the extraordinary situation that had arisen because of the earthquake, the Government came out with a beneficial

scheme by virtue of Government resolution dated 3.11.1993 whereby those persons whose houses were demolished in the earthquake were given the houses in the new township in lieu of those houses and the land beneath the houses which were demolished were to be taken in possession of the Government. The persons whose houses were demolished are now allotted the houses in the new township. According to the respondent - State, these lands in respect of which order has been passed by the Tahsildar and impugned in the present petition, are the lands beneath the houses which were demolished and as such the Government has every right to take possession of the said houses. The only contention of the petitioners is that these lands were never the land beneath the houses and are separate lands.

7] It would not be possible for this Court to investigate into the dispute about the instant land being a land, apart from the land beneath the houses, which were destroyed or otherwise. It would be appropriate for the parties to approach the Collector in that regard. The petitioners shall approach the Collector within a period of 15 days from today and file appropriate

application/s detailing their rights over the instant writ lands. The Collector and/or the Additional Collector shall consider these application/s and whatever documents would be produced by the petitioners so also after hearing the petitioners and the authorities so also any other interested person/s, may decide the application/s expeditiously and preferably within a period of three months from the date of application/s. Needless to state, till the same are decided by the Collector / Additional Collector, the further steps may not be taken. The petitioners shall cooperate for expeditious disposal of the said applications.

8] Writ petition is accordingly disposed of with aforesaid observations. No costs. In view of disposal of writ petition, Civil Application No.11941/2015 also stands disposed of.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)