

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL WRIT PETITION NO. 1258 OF 2012
WITH
(CIVIL APPLICATION NOS. 1484 OF 2012 & 2008 OF 2012)**

Mr. N.J.Rane & Anr.

..Petitioners

v/s.

The State of Maharashtra & Ors.

..Respondents

Mr.A.K.Malpathak i/b. Parag Kale for the Petitioner.

Sr. Counsel Mr. F.E.Devitre, with Mr. C.S.Balsara a/w. Mr. H.N.Vakil and Ms. S.M.Vakil for the respondent nos.4 to 7 i/b. M/s. Mulla & Mulla and Craigie Blunt & Caroe.

Mr.V.M.Mali, AGP for the State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : JUNE 21, 2016.**

P.C.

1. Heard learned Counsel Mr. Malpathak for the petitioners and learned Sr. Counsel Mr. Devitre for the respondent nos.4 to 7. This petition is filed for the following reliefs:

“b-1. Issue an appropriate Writ, Direction or Order under Article 226 of the Constitution of India directing the

respondent's no.1 and 2 to ensure the compliance of the conditions of the Sanad at Exh.C and further ensure that respondent no.4 builds sufficient number of residential accommodation for all the employees, within a time bound period, and if it is found that the lands falling under Exh.C are insufficient for the purpose, use other suitable lands falling under Exh.B for the purpose of building sufficient number of houses for all the employees.

c. Writ, direction or order under Article 226 of the Constitution of India directing respondents to handover vacant peaceful and encumbrance free possession of land covered by S. No.55 or any other suitable land under either of the sanads at Exh.B and Exh.C to the petitioner no.2 for the purpose of constructing houses for its members on ownership basis.

c-1. In the alternative to prayers b-1 or c, in the event it is found that respondents no.1 to 4 cannot ensure compliance with the terms and condition of the sanads, issue a writ, direction or order under Article 226 of the Constitution of India, to respondent no.1 to cancel the Sanad at Exh.B and C (excluding such parts of lands under Exh.B. which respondent no.4 is using for its manufacturing and administrative purposes) and resume and take into possession rest of the lands.)

2. The petitioners claim that in the year 1967 the respondent no.1 granted Sanad to respondent no.4 in respect of the land at Panchpakadi, Thane, including Survey No.85 for construction of the factory. In the year 1969, another Sanad was granted to respondent no.4 in respect of the land at Majiwade for construction of dwelling houses for the workmen of respondent no.4.

3. In the year 1976, Urban Land (Ceiling & Regulation) Act, 1976 came into force and some of the lands covered by the aforesaid two sanads were declared as surplus vacant land in the year 1984. The State Government at the instance of Respondent no.4 passed exemption Order under Section 21 of the ULC Act, 1976. There is no dispute that the exemption order under Section 21 of the ULC Act is upheld upto the Supreme Court.

4. Mr. Malphatak, learned Counsel for the petitioners, fairly conceded that in respect of the surplus land under Section 21 of the ULC Act, the petitioners can't claim any right. Mr. Malpathak, however submitted that in respect of non surplus land, the respondent no.4 is obliged to provide dwelling houses to the

members of the petitioner no.2.

5. Mr. DeVitre, learned Sr. Counsel for the respondent no.4 disputed that the members of the petitioner no.2 are the employees of the respondent no.4. He, however, submits that they are the employees of Volswitch, which was a subsidiary company of the respondent no.4. However, it was already been sold and it has nothing to do with the respondent no.4.

6. Be that as it may, so far as the non surplus land from Majiwade is concerned, Mr. DeVitre, the learned Sr. Counsel makes a statement that the same is fully developed, and out of which 200 dwelling houses are given to the employees of the respondent no.4 and this fact is also recorded in the order dated 18.1.1987 passed in Writ Petition No.2197 of 1987. This statement is not disputed by learned Counsel Mr. Malpathak for the petitioners.

7. In the above circumstances, the petitioner's claim that respondent no.4 should construct houses in Survey No.85 which was the part of the sanad given to the respondent no.4 for construction of factory, cannot be accepted.

8. Mr. Malpathak, learned Counsel, states that the land Survey

No.55 is at the disposal of the respondent nos.4 and this land can be used for construction of the dwelling houses for the members of the petitioner no.2. This submission is also in our view devoid of any substance, since the respondent no.4 claims that this land Survey no.55 is not a part of any of the sanad and the same is privately acquired by the respondent no.4.

9. Taking the overall facts and circumstances of the case into consideration, we do not find any merit in the petition and the same is dismissed.

10. In view of dismissal of the writ petition, civil applications no. 1484 of 2012 and 2008 of 2012 do not survive, and the same are accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)