

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

WRIT PETITION NO.9058 OF 2015

John Anthony Misquitta

...Petitioner

Versus

State of Maharashtra & Ors.

...Respondents

Mr. Amol P. Mhatre for the Petitioner.

Ms. N.M. Mehra, AGP for the Respondent No.1.

Mr. Ajit Ram Pitale for the Respondent No.2.

Mr. Rakesh V. Misar i/b. M/s. Kachwala & Co. for the Respondent No.4.

**CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 16th JUNE, 2017

P.C.

1. Heard the learned Counsel appearing for the petitioner. He is pressing prayer clause (b) which reads as follows:-

“b] Issue appropriate Writ, Order or direction in like nature against the Thane Municipal Corporation to grant benefit by way of TDR certificate of 60 sq. mtrs of the land out of S. ,no.94/1 to which the Petitioner is entitled to;”

2. It is not in dispute that the land mentioned in the prayer clause (b) was transferred by the 4th respondent to the Municipal Corporation for the City of Thane in the year 2003. It is not in dispute that apart from the petitioner, there are other persons claiming to be the co-owners of the property in question.

3. The 4th respondent has purported to transfer the property to the Thane Municipal Corporation in the year 2003. If the petitioner is claiming TDR in respect of the property in question, he will have to establish his title by approaching appropriate Civil Court. Therefore, we decline to entertain this petition filed under Article 226 of the Constitution of India. The petition is rejected. However, the remedy of the petitioner is kept open. All contentions on merits are kept open.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)