

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4897 OF 2017

1. Fakir Mohammed Hasanmiya Patel,
Age: 63 yrs., Occu. Agri.,
R/o. House no.140, Khairna Village,
Thane-Belapur Road, Navi Mumbai, Tq.
and District Thane.
2. Gulam Mohammed Hasanmiya Patel,
Age:61 yrs., Occu. Agri., R/o. As above.
3. Elias Razzak Patel,
Age: 51 yrs. Occu.: Agri, R/o.As above.
4. Umar Razzak Patel,
Age: 53 yrs., Occu. Agri., R/o.As above.
5. Ajit Razzak Patel,
Age: 44 yrs., Occu. Agri., R/o.As above.
6. Hanif Razzak Patel,
Age: 41 yrs., Occu. Agri., R/o.As above.
7. Shafiq Amir Patel,
Age: 43 yrs., Occu. Agri., R/o.As above.
8. Mumtaz Amir Pate,
Age: 66 yrs., Occu. Agri., R/o.As above.
9. Afroz Zahir Patel,
Age: 56 yrs., Occu. Agri., R/o.As above.
10. Fatima Hussain Patel
Age: 57 yrs., Occu. Agri., R/o.As above.
11. Hasina Nisar Patel,
Age: 46 yrs., Occu. Agri., R/o.As above.
12. Shakira Arif Khot,
Age: 48 yrs., Occu. Agri., R/o.As above.
13. Jamila Adil Dongre,
Age: 49 yrs., Occu. Agri., R/o.As above.
14. Famida Rais Surve,
Age: 41 yrs., Occu. Agri., R/o.As above.
15. Kayyum Hasanmiya Patel,
Age: 66 yrs., Occu. Agri.,
R/o. House No.140, Khairna village,
Thane-Belapur Road, Navi Mumbai,
Tq. and District Thane.
16. Rauf Amir Patel,
Age: 52 yrs., Occu. Agri.,
R/o. House No.140, Khairna village,

Thane-Belapur Road, Navi Mumbai,
Tq. and District Thane.
(Petitioner Nos.15 and 16 for themselves
and as Special Power of Attornies for
Petitioner nos.1 to 14.)

Petitioners

Versus

1. State of Maharashtra through its
Principal Secretary, Revenue & Forest
Department, Maharashtra State,
Mantralaya, Mumbai through the office
of the Government Pleader, Appellate
Side, High Court at Bombay.
2. The Collector, Thane Collectorate
Building, Tq. And District Thane.
3. City and Industrial Development
Corporatio (CIDCO), having its Head
Office at CIDCO Bhavan CBD, Belapur,
Navi Mumbai.

Respondents

Mr. Sharique Nanchan, a/w Mr. Sagheer A. Khan & Mr.
Parth Zaveri, I/b Judicare Law Associates, for the
Petitioners.

Mr. R. S. Pawar, AGP for the Respondent nos.1 & 2/State.
Mr. Gopalkrishna Shivram Hegde, for Respondent no.3 /
CIDCO.

**CORAM: R. M. BORDE &
N. J. JAMADAR, JJ**

DATED: 26th March, 2019

Oral Judgment:- (Per R. M. Borde, J.)

1. Heard Mr. Nanchan, the learned Counsel for the
Petitioners, Mr. Pawar, the learned AGP for the State and
Mr. Hegde, the learned Counsel for Respondent no.3/CIDCO.
2. Rule.
3. Rule made returnable forthwith. With the consent of the
Counsels for the parties heard finally.

4. The Petitioners are the owners of land Survey Nos.84/4A, 86/3, 88 and 89/2, situated at village Borivali, Taluka and District Thane. The Petitioners are praying for issuance of direction to the Revenue Authorities to remove the endorsement recorded in the 7/12 extract of the concerned survey numbers, recording that the subject properties have been acquired in view of the notification issued by the Commissioner, Mumbai Division, bearing No. LAQ C-336 dated 3rd February, 1970. The Petitioners contend that the endorsements have been recorded erroneously and that the landed property belong to the Petitioners has not been acquired at any point of time in the past.

5. The learned Counsel for Respondent no.3 – CIDCO/ acquiring body has presented an Affidavit today, stating therein that the subject lands are falling within the areas notified by the State Government for acquisition for the purposes of development of Navi Mumbai and the CIDCO has been appointed as the New Town Development Authority / Special Planning Authority for the said notified areas.

6. We direct the learned Counsel appearing for Respondent no.3 - CIDCO as well as the learned AGP appearing for the State to inform as to whether the subject lands have been acquired by the State Government at any

point of time or any award has been declared. We have been informed that the proceedings have not culminated in declaration of the award and the subject lands have not been acquired any point of time in the past. Since the subject lands have never been acquired, the endorsement appearing on the 7/12 extract recorded by the Revenue Authority is erroneous and deserves to be removed.

- 7.** The petition is, thus, allowed in terms of prayer Clause (a).
- 8.** Necessary corrections be effected as expeditiously as possible preferably within six weeks from today.
- 9.** Rule made absolute in above terms. No costs.

[N. J. JAMADAR, J.]

[R. M. BORDE, J.]