

Bharat  
D. Pandit

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**Writ Petition NO. 7735 OF 2019**

Amrutben Soma Solanki D/o.

Soma Shankar Solanki

...Petitioner(s)

*Versus*

The Collector, Diu And Ors

...Respondent(s)

**WITH**

**Writ Petition NO. 7736 OF 2019**

Smt. Dhaniben Lakhman

...Petitioner(s)

*Versus*

The Collector, Diu And Ors.

...Respondent(s)

**WITH**

**Writ Petition NO. 7737 OF 2019**

Kantaben Ukarda W/o. Ukarda

Lakhman Bamania And Anr

...Petitioner(s)

*Versus*

The Collector, Diu And Ors

...Respondent(s)

**WITH**

**Writ Petition NO. 7739 OF 2019**

Shri. Meghji Bhikha Chavda And Anr.

...Petitioner(s)

*Versus*

The Collector Diu And Ors.

...Respondent(s)

**WITH**

**Writ Petition NO. 7740 OF 2019**

Shri. Lakhman Jiva ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7741 OF 2019**

Lakhiben Kanji ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7742 OF 2019**

Smt. Sona Karsan Charania Anr. ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7743 OF 2019**

Ramiben Rama ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7744 OF 2019**

Shri. Hira Ruda Bamania ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7746 OF 2019**

Manjula Soma Chavda  
W/do. Soma Harji Chavda ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

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**WITH**

**Writ Petition NO. 7747 OF 2019**

Smt. Mani Bhikha Bamania  
D/o. Karsan Raja ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

**WITH**

**Writ Petition NO. 7749 OF 2019**

Jiva Lakhman Solanki  
S/o. Lakhman Solani ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

**WITH**

**Writ Petition NO. 7750 OF 2019**

Ratan Ukarda ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7752 OF 2019**

Shri Ramji Punja Charaniya ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7754 OF 2019**

Ratanben Soma

...Petitioner(s)

*Versus*

The Collector, Diu And Ors.

...Respondent(s)

**WITH**

**Writ Petition NO. 7755 OF 2019**

Shri. Ramji Megha Bariya

...Petitioner(s)

*Versus*

The Collector Diu And Ors.

...Respondent(s)

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**WITH**

**Writ Petition NO. 7757 OF 2019**

Laxmiben Vaju Bamaniya And Anr.

...Petitioner(s)

*Versus*

The Collector Diu And Ors.

...Respondent(s)

**WITH**

**Writ Petition NO. 7758 OF 2019**

Shri. Chhagan Varjang

...Petitioner(s)

*Versus*

The Collector Diu And Ors.

...Respondent(s)

**WITH**

**Writ Petition NO. 7759 OF 2019**

Shri. Nathu Harji Solanki

...Petitioner(s)

*Versus*

The Collector, Diu And Ors

...Respondent(s)

**WITH**

**Writ Petition NO. 7763 OF 2019**

Smt. Sona Harji Charania  
*Versus*  
The Collector Diu And Ors.

...Petitioner(s)  
...Respondent(s)

**WITH**

**Writ Petition NO. 7764 OF 2019**

Vira Karsan  
*Versus*  
The Collector, Diu And Ors.

...Petitioner(s)  
...Respondent(s)

**WITH**

**Writ Petition NO. 7766 OF 2019**

Shri. Vira Bhikha  
*Versus*  
The Collector Diu And Ors.

...Petitioner(s)  
..Respondent(s)

**WITH**

**Writ Petition NO. 7769 OF 2019**

Smt. Rajiben Karsan  
*Versus*  
The Collector Diu And Ors.

...Petitioner(s)  
...Respondent(s)

**WITH**

**Writ Petition NO. 7772 OF 2019**

Ramji Harji Chavda  
S/o. Harjibhai Chavda  
*Versus*  
The Collector, Diu And Ors

...Petitioner(s)  
...Respondent(s)

**WITH**

**Writ Petition NO. 7774 OF 2019**

Lakhiben Lakhman Solanki  
Wd/o Lakhman Nathu Solani

...Petitioner(s)

*Versus*  
The Collector, Diu And Ors

...Respondent(s)

**WITH**

**Writ Petition NO. 7775 OF 2019**

Sonaben Lakhman Solanki  
*Versus*  
The Collector, Diu And Ors.

...Petitioner(s)

...Respondent(s)

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**WITH**

**Writ Petition NO. 7776 OF 2019**

Shri. Lakhman Ramji Bamania  
Wd/o. Ramji Raja Bamania  
*Versus*  
The Collector, Diu And Ors

...Petitioner(s)

...Respondent(s)

**WITH**

**Writ Petition NO. 7777 OF 2019**

Shri. Ramaji Karsan Solanki  
*Versus*  
The Collector, Diu And Ors

...Petitioner(s)

...Respondent(s)

**WITH**

**Writ Petition NO. 7778 OF 2019**

Shri. Raja Bava Solanki  
S/o Bava Jiva Solanki  
*Versus*  
The Collector, Diu And Ors

...Petitioner(s)

...Respondent(s)

**WITH**

**Writ Petition NO. 7779 OF 2019**

Shri. Rama Lakha S/o. Lakha Deva

...Petitioner(s)

*Versus*  
The Collector, Diu And Ors ...Respondent(s)

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**WITH**  
**Writ Petition NO. 7780 OF 2019**

Kaliben Soma W/o. Soma Karsan ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

**WITH**  
**Writ Petition NO. 7781 OF 2019**

Raja Varjang Kaitanno ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors. ...Respondent(s)

**WITH**  
**Writ Petition NO. 7782 OF 2019**

Valuben Rama Solanki  
S/o. Rama Shankar Solanki ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

**WITH**  
**Writ Petition NO. 7783 OF 2019**

Shri. Jiva Rama Bariya ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors. ...Respondent(s)

**WITH**  
**Writ Petition NO. 7784 OF 2019**

Smt. Hiruben Babu ...Petitioner(s)

*Versus*  
The Collector, Diu And Ors. ...Respondent(s)  
**WITH**

**Writ Petition NO. 7785 OF 2019**

Vira Jiva Bamania S/o. Jivabhai Bamania ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)  
**WITH**

**Writ Petition NO. 7787 OF 2019**

Ramji Deva Kaitanno And Anr ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)  
**WITH**

**Writ Petition NO. 7788 OF 2019**

Kaliben Deva Chavda ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)  
**WITH**

**Writ Petition NO. 7789 OF 2019**

Smt. Ratanben Rama W/o. Rama Jiva ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)  
**WITH**

**Writ Petition NO. 7791 OF 2019**

Raja Bhagwan Chavda ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)



**WITH**

**Writ Petition NO. 7792 OF 2019**

Maniben Bhagwan ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

**WITH**

**Writ Petition NO. 7793 OF 2019**

Laduben Rama Wd/o. Rama Karsan ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

**WITH**

**Writ Petition NO. 7795 OF 2019**

Shri. Ramji Jiva Solanki ...Petitioner(s)  
*Versus*  
The Collector Diu And Ors. ...Respondent(s)

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**WITH**

**Writ Petition NO. 7796 OF 2019**

Shri. Samji Jiva Charaniya ...Petitioner(s)  
*Versus*  
The Collector Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7797 OF 2019**

Ramji Nathu Solanki ...Petitioner(s)  
*Versus*  
The Collector Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7799 OF 2019**

|                            |                  |
|----------------------------|------------------|
| Shri. Babu Nathu Bariya    | ...Petitioner(s) |
| <i>Versus</i>              |                  |
| The Collector Diu And Ors. | ...Respondent(s) |

**WITH**

**Writ Petition NO. 7800 OF 2019**

|                            |                  |
|----------------------------|------------------|
| Smt. Jivi Lakhman Bamania  |                  |
| Wd/o Lakhman Rama Bamania  | ...Petitioner(s) |
| <i>Versus</i>              |                  |
| The Collector, Diu And Ors | ...Respondent(s) |

**WITH**

**Writ Petition NO. 7801 OF 2019**

|                                   |                  |
|-----------------------------------|------------------|
| Smt. Somi Dhanji D/o. Punja Harji | ...Petitioner(s) |
| <i>Versus</i>                     |                  |
| The Collector, Diu And Ors        | ...Respondent(s) |

**WITH**

**Writ Petition NO. 7802 OF 2019**

|                            |                  |
|----------------------------|------------------|
| Shri. Lakhman Rama Chavda  | ...Petitioner(s) |
| <i>Versus</i>              |                  |
| The Collector, Diu And Ors | ...Respondent(s) |

**WITH**

**Writ Petition NO. 7804 OF 2019**

|                            |                  |
|----------------------------|------------------|
| Sona Punja Bamaniya        | ...Petitioner(s) |
| <i>Versus</i>              |                  |
| The Collector, Diu And Ors | ...Respondent(s) |

**WITH**

**Writ Petition NO. 7805 OF 2019**

|                            |                  |
|----------------------------|------------------|
| Maniben Ramji              | ...Petitioner(s) |
| <i>Versus</i>              |                  |
| The Collector, Diu And Ors | ...Respondent(s) |

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**WITH**

**Writ Petition NO. 7806 OF 2019**

|                                    |                  |
|------------------------------------|------------------|
| Shri.Rama Bhikha S/o. Bhikha Punja | ...Petitioner(s) |
| <i>Versus</i>                      |                  |
| The Collector, Diu And Ors         | ...Respondent(s) |

**WITH**

**Writ Petition NO. 7807 OF 2019**

|                               |                  |
|-------------------------------|------------------|
| Smt. Diwaliben Dinesh Bamania | ...Petitioner(s) |
| <i>Versus</i>                 |                  |
| The Collector, Diu And Ors    | ...Respondent(s) |

**WITH**

**Writ Petition NO. 7808 OF 2019**

|                            |                  |
|----------------------------|------------------|
| Shri. Ramji Raja Bamania   |                  |
| S/o. Raja Lakhman Bamania  | ...Petitioner(s) |
| <i>Versus</i>              |                  |
| The Collector, Diu And Ors | ...Respondent(s) |

**WITH**

**Writ Petition NO. 7810 OF 2019**

|                               |                  |
|-------------------------------|------------------|
| Smt. Rajiben Bhagvan Bamania  |                  |
| Wd/o. Bhagvan Varjang Bamania | ...Petitioner(s) |
| <i>Versus</i>                 |                  |
| The Collector, Diu And Ors    | ...Respondent(s) |

**WITH**

**Writ Petition NO. 7811 OF 2019**

Nathu Karsan S/o. Karsan Bhukhe ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

**WITH**

**Writ Petition NO. 7813 OF 2019**

Shri. Deva Rama Solanki  
S/o. Ramabhai Solani ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

**WITH**

**Writ Petition NO. 7814 OF 2019**

Raniben Lakhman Charaniya  
Wd/o Lakhman Charaniya ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

**WITH**

**Writ Petition NO. 7815 OF 2019**

Shri. Bhikha Sidi Bamania  
S/o. Sidi Bamania ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

**WITH**

**Writ Petition NO. 7816 OF 2019**

Shri. Lakhman Varjang ...Petitioner(s)  
*Versus*

The Collector, Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7817 OF 2019**

Shri. Rama Sidi ...Petitioner(s)

*Versus*

The Collector, Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7818 OF 2019**

Rama Lakhan Bamaniya And Anr. ...Petitioner(s)

*Versus*

The Collector, Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7819 OF 2019**

Shri. Chhagan Nathu Charania ...Petitioner(s)

*Versus*

The Collector, Diu And Ors. ...Respondent(s)

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**WITH**

**Writ Petition NO. 7821 OF 2019**

Shri. Ratilal Harji Bamanian And Anr. ...Petitioner(s)

*Versus*

The Collector, Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7823 OF 2019**

Shri. Bhagwan Sidi ...Petitioner(s)

*Versus*

The Collector Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7824 OF 2019**

Shri. Ramji Varjang (since Decd.)  
Through Lrs. Shri. Nanji Ramji ...Petitioner(s)  
*Versus*  
The Collector Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7825 OF 2019**

Soma Sidi Bamania ...Petitioner(s)  
*Versus*  
The Collector Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7826 OF 2019**

Smt. Sona Jiva Bamania ...Petitioner(s)  
*Versus*  
The Collector Diu And Ors. ...Respondent(s)

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**WITH**

**Writ Petition NO. 7827 OF 2019**

Shri. Lakhman Rama ...Petitioner(s)  
*Versus*  
The Collector Diu And Ors. ...Respondent(s)

**WITH**

**Writ Petition NO. 7828 OF 2019**

Chhagan Varjang Chavda  
S/o Varjangbhai Chavda ...Petitioner(s)  
*Versus*  
The Collector, Diu And Ors ...Respondent(s)

**CORAM: NITIN W. SAMBRE, J.**

**DATED: 23rd July, 2019**

**PC:-**

**1]** Since a common issue is raised in all these Petitions, for the convenience, facts in Writ Petition No.7799 of 2019 are taken into consideration for disposal of the Petitions.

**2]** In all these Petitions, order passed at Exhibit-5 by the Tribunal, thereby rejecting the prayer of the Petitioner for grant of temporary injunction is the subject matter of challenge.

**3]** At the outset, learned Counsel for the Respondents submits that on 12/07/2019 possession from the Petitioners of land in question is already taken by the Forest Department and since the land Survey No.39/0 (P) being barren land, same is already fenced and is being put to use for Forest.

**4]** Since the statement is made by learned Counsel for the Respondents on instructions, same is taken on record.

**5]** In the aforesaid background, submissions of the learned Counsel Mr.

Mali, appearing on behalf of the Petitioners are, in 1986, proceedings were initiated against all these Petitioners and the order dated 14/11/1986 came to be passed, thereby declaring the Petitioners as encroachers on the aforesaid survey number. He would urge that the said order was never communicated to the Petitioners and the same is found to be a basis for issuance of notice on 27/09/2017. According to him, based on the aforesaid, Respondents initiated separate eviction proceedings in which the Petitioners sought protection of their possession over the land in question, particularly in the backdrop of pleadings that the Petitioners are in possession of the land in question for more than 100 years. This prayer of the Petitioners is rejected by the order impugned.

**6]** If the submissions of the learned Counsel for the Petitioners are appreciated, the fact remains that Respondents have come out with a defense that order of declaring the Petitioners as encroachers and they being directed to hand over possession, is taken to its logical end by taking over possession of the property. Apart from above, though the order dated 14/11/1986 is produced on record and as such within the knowledge of the Petitioners, there is no challenge raised against the said order. Apart from this, there is no prayer before the authority below for restoration of possession. That being so, there is no substance in the Petition. All these Petitions, as such, fail and stand dismissed.



**7]** However, Petitioners are at liberty to move for amendment to the claim for grant of restoration of possession.

**(NITIN W. SAMBRE, J.)**