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)

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)

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

WITH

Writ Petition NO. 7764 OF 2019

Vira Karsan ...Petitioner(s)
Versus
The Collector, Diu And Ors. ...Respondent(s)

WITH

Writ Petition NO. 7766 OF 2019

Shri. Vira Bhikha ...Petitioner(s)
Versus
The Collector Diu And Ors. ..Respondent(s)

WITH

Writ Petition NO. 7769 OF 2019

Smt. Rajiben Karsan ...Petitioner(s)
Versus
The Collector Diu And Ors. ...Respondent(s)

WITH

Writ Petition NO. 7772 OF 2019

Ramji Harji Chavda
S/o. Harjibhai Chavda ...Petitioner(s)
Versus
The Collector, Diu And Ors ...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 ...Petitioner(s)
Versus
The Collector, Diu And Ors. ...Respondent(s)

WITH
Writ Petition NO. 7776 OF 2019

Shri. Lakhman Ramji Bamania
Wd/o. Ramji Raja Bamania ...Petitioner(s)
Versus
The Collector, Diu And Ors ...Respondent(s)

WITH

Writ Petition NO. 7777 OF 2019

Shri. Ramaji Karsan Solanki ...Petitioner(s)
Versus
The Collector, Diu And Ors ...Respondent(s)

WITH

Writ Petition NO. 7778 OF 2019

Shri. Raja Bava Solanki
S/o Bava Jiva Solanki ...Petitioner(s)
Versus
The Collector, Diu And Ors ...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)

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)

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

WITH

Writ Petition NO. 7801 OF 2019

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

WITH

Writ Petition NO. 7802 OF 2019

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

WITH

Writ Petition NO. 7804 OF 2019

Sona Punja Bamaniya ...Petitioner(s)
Versus
The Collector, Diu And Ors ...Respondent(s)

WITH

Writ Petition NO. 7805 OF 2019

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

WITH

Writ Petition NO. 7806 OF 2019

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

WITH

Writ Petition NO. 7807 OF 2019

Smt. Diwaliben Dinesh Bamania ...Petitioner(s)
Versus
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)
Versus
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)
Versus
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)

WITH

Writ Petition NO. 7821 OF 2019

Shri. Ratilal Harji Bamania 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)

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.)