

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1470 OF 2012
WITH
CHAMBER SUMMONS NO.294 OF 2018
IN
WRIT PETITION NO.1470 OF 2012

A.H. Wadia Trust & Others Petitioners

Vs.

Municipal Corporation of Greater
Mumbai & Others

.... Respondents

WITH
WRIT PETITION NO.2396 OF 2013
WITH
NOTICE OF MOTION NO.581 OF 2018
WITH
CHAMBER SUMMONS NO.44 OF 2019
IN
WRIT PETITION NO.2396 OF 2013

Sayyed Ataullah Qadri

.... Petitioner

Vs.

Government of Maharashtra & Others

.... Respondents

WITH
NOTICE OF MOTION NO.81 OF 2017
IN
WRIT PETITION NO.2396 OF 2013

State of Maharashtra

.... Applicant

In the matter between

Sayyed Ataullah Qadri

.... Petitioner

Vs.

Government of Maharashtra & Others

.... Respondents

WITH
WRIT PETITION NO.2398 OF 2013
WITH
NOTICE OF MOTION NO.583 OF 2018
WITH
CHAMBER SUMMONS NO.46 OF 2019
IN
WRIT PETITION NO.2398 OF 2013

Sayyed Mehboob Qadri Petitioner
Vs.
Government of Maharashtra & Others Respondents

Mr. Chaitanya Chavan with Mr. Ruchit Dave &
Ms Aishwarya Padval i/by Vigil Juris for the
Petitioners in WP-1470/2012.

Mr. Piyush Raheja with Mr. Sunil Gangan, Mr.
Jayesh Mestry, Mr. Swapnil Shikhare & Mr. Akshat
Shah i/by RMG Law Associates for the Petitioner
in WP-Nos.2396 & 2398 of 2013.

Ms Geeta R. Shastri, Addl. GP, for the Respondent-State.

Mr. A.Y. Sakhare, Senior Advocate, with Ms Vandana
Mahadik for the MCGM.

**CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.**

DATE : APRIL 24, 2019

P.C:

1. After having heard all parties at great length on the earlier occasion and perusing the proceedings in each of these

petitions with their assistance, we had indicated to them sufficiently on the earlier occasion and even today that the remedy resorted to by them is not the correct and appropriate one. A Collector exercising power under the Maharashtra Land Revenue Code, 1966 or an enactment analogues thereto has extremely limited authority. The Collector is never a substitute for a Civil Court. In fact, what the Collector determines and decides eventually lands in the Civil Court and it is only the Civil Court which can adjudicate on the issue of right, title and interest in immovable properties. Moreover, if that right is interfered with or obstructed illegally, then the parties have to seek assistance from a Civil Court. On establishment of their right, title and interest and proving that they have been wrongfully and illegally deprived of the use and enjoyment of their property, the Civil Court can grant appropriate relief. In writ jurisdiction we cannot direct the Collector, once again, to go into the claim which is highly disputed. Rather, the allegation is that the State Government and Municipal Authorities have interfered or obstructed the petitioners in the enjoyment of their

property or have done something which affects adversely their right, title and interest therein. No useful purpose would be served by calling upon the Collector, Mumbai Suburban District to go into such issues. More so, when he is not equipped to deal with the same.

2. When this position was brought to the notice of the petitioners' Advocate and by pointing out further that in writ jurisdiction we cannot resolve contested issues of right, title and interest in the immovable property, each of these petitioners seek a protection from this Court.

3. In the light of acceptance of the limited jurisdiction of this Court and further no useful purpose being served by sending the matters back to the Collector, we dispose of each of these petitions. The petitioners will be at liberty to bring Civil Suits in Competent Civil Court to prove their right, title and interest in the immovable property and also to establish that portions of their property have been illegally taken over and wrongly utilized for allegedly widening the base of a river

known as Mithi River by the Mithi River Development Authority. They would also be at liberty to establish and prove that the State Government and the Municipal officials have either assisted the above Authority in depriving the petitioners of their right, title and interest in the property belonging to them or the use and enjoyment thereof in accordance with law. When all these facts are alleged, properly pleaded, proved and established, we have no doubt in our mind that the Civil Court will grant such reliefs to the parties before it, as are permissible in law. We clarify that when the Collector was directed by this Court to go into such issues, this Court did not confer jurisdiction in the Collector which he does not possess in law nor this Court's order clothes him with such powers as are not vested in him by law. Hence, the orders passed by him and impugned in these petitions will not influence the Civil Court in any manner in considering the case of the petitioners. The Civil Court should decide the issues of right, title and interest in the immovable property and grant all reliefs based thereon, uninfluenced by any order or finding by the Collector of Mumbai

Suburban District. All contentions of all parties in relation to the above issues are kept open.

4. In view of disposal of the petitions as above, the applications in each of the petitions also stand disposed of.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)