

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

WRIT PETITION NO.3813 OF 1996

Dr. F. F. Wadia	 Petitioner
versus	
State Government of Maharashtra	 Respondents

**WITH
INTERIM APPLICATION NO.10055 OF 2022
IN
WRIT PETITION NO.3813 OF 1996**

Dilip Zukkan Badekar	 Applicant
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IN THE MATTER BETWEEN -:

Dr. Farrokh F. Wadia & Ors.	 Petitioners
versus	
State Government of Maharashtra	 Respondents

**WITH
INTERIM APPLICATION NO.10047 OF 2022
IN
WRIT PETITION NO.3813 OF 1996**

Maharashtra Metro Rail Corporation Ltd.	 Applicant
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IN THE MATTER BETWEEN -:

Dr. Farrokh F. Wadia & Ors.	 Petitioners
versus	
State Government of Maharashtra	 Respondents

**WITH
INTERIM APPLICATION NO.10044 OF 2022
IN
WRIT PETITION NO.3813 OF 1996**

Sudhakar Tukaram Kamble & Ors.	 Applicants
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IN THE MATTER BETWEEN -:

Farrokh F. Wadia & Ors.	 Petitioners
versus	
State Government of Maharashtra	 Respondents

**WITH
INTERIM APPLICATION NO.10039 OF 2022
IN
WRIT PETITION NO.3813 OF 1996**

Kiran Sushilchandra Gorde & Ors.	 Applicants
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IN THE MATTER BETWEEN -:

Dr. F. F. Wadia	 Petitioner
versus	
State Government of Maharashtra	 Respondents

**WITH
CIVIL APPLICATION NO.992 OF 2019
IN
WRIT PETITION NO.3813 OF 1996**

Municipal Corporation for the City of Pune	 Applicant
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IN THE MATTER BETWEEN -:

Dr. Farrokh F. Wadia & Ors.	 Petitioners
versus	
State Government of Maharashtra	 Respondents

WRIT PETITION NO.7465 OF 2012

Mukund Bhavan Trust & Ors.	 Petitioner
versus	
State Government of Maharashtra & Ors.	 Respondents

**WITH
INTERIM APPLICATION (ST) NO.18220 OF 2021
IN
WRIT PETITION NO.7465 OF 2012**

Vikas Shantaram Bhingardive Applicants

IN THE MATTER BETWEEN -:

Mukund Bhavan Trust & Ors. Petitioner
versus
State Government of Maharashtra & Ors. Respondents

**WITH
INTERIM APPLICATION (ST) NO.12169 OF 2021
IN
WRIT PETITION NO.7465 OF 2012**

Maharashtra Metro Rail Corporation Ltd. Applicant

IN THE MATTER BETWEEN -:

Mukund Bhavan Trust & Ors. Petitioner
versus
State Government of Maharashtra & Ors. Respondents

**WITH
CIVIL APPLICATION NO.2246 OF 2019
IN
WRIT PETITION NO.7465 OF 2012**

Maharashtra Metro Rail Corporation Ltd. Applicant

IN THE MATTER BETWEEN -:

Mukund Bhavan Trust & Ors. Petitioner
versus
State Government of Maharashtra & Ors. Respondents

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- Mr. Shahezad A. Kazi with Mr. Utkarsh Trivedi, Advocate for Petitioner in Writ Petition No.3813 of 1996.
- Mr. Milind Sathe, Senior Advocate a/w Mr. D. V. Deokar and Mr. D. Parikh, advocate for Petitioners in WP/7465/12 and for Respondent No.27 to 29 in WP/3813/96.
- Mr. Hemant Ghadigaonkar, Advocate for Applicant in IA/10055/22 and IA/10044/22 and for Respondent No.31 to 33 in WP/3813/96.
- Mr. Pralhad D. Paranjape a/w Mr. Manish Kelkar, Applicant in IA/10047/22 in WP/3813/96 and Applicant in IAST/12169/21 in WP/7465/12.
- Mr. Bakul B. Bhosale, Applicant in IA/10039/22 in WP/3813/96.
- Mr. A. I. Patel, Addl. G. P. with Ms. K. N. Solunke, AGP for Respondent Nos.1 and 3 in WP/3813/96 and Respondent Nos.1 to 4 in WP/7465/12.
- Mr. T. D. Deshmukh a/w Mr. Sagar Kursija, Advocate for Respondent No.7 in WP/3813/96.
- Mr. N. P. Deshpande, Advocate for Respondent No.44 in WP/3813/96.
- Ms. Bhavana Dubapatil i/b. Jay & Co. for Intervenor/Applicant in IAST/18220/21 in WP/7465/12.

**CORAM : R. D. DHANUKA &
M. G. SEWLIKAR, JJ.**

DATE : 01st JULY, 2022.

P.C. :

1. Learned counsel for the Petitioner in Writ Petition No.3813 of 1996 on instructions seeks permission to withdraw this Petition, on the ground that his client does not want to

pursue this Petition and states that his client is ready and willing to hand over the possession of the land to the Government. Statement is accepted.

2. Learned counsel for the Petitioner states that there are encroachments on the land which is proposed to be handed over by his client to the State Government. The State Government may take possession from the Petitioner of the land. At this stage, it is not necessary to pass any order as to whether State Government would be at liberty to take any action against the Petition for committing violation, if any.

3. Dr. Milind Sathe, learned Senior Advocate for Respondent Nos.28 and 29 states that his clients have filed Writ Petition No.7465 of 2012 for identical reliefs. He invited our attention to the prayers in Writ Petition No.3813 of 1996 and also to the prayers in Writ Petition No.7465 of 2012. He also invited our attention to the orders passed by this Court in Writ Petition No.7465 of 2012 on 18/09/2012 directing the office to place the said Petition for admission along with Writ Petition

No.3813 of 1996 on 16/10/2012. He submitted that on 16/10/2012 the Division Bench of this Court recorded that the prayers of the Writ Petition No.7465 of 2012 are identical to the prayers in Writ Petition No.3813 of 1996. This Court already granted Rule and placed the matter on board for final hearing.

4. It is submitted that no interim relief is separately granted in favour of Petitioner in Writ Petition No.7465 of 2012 in view of the interim relief already granted by this Court in Writ Petition No.3813 of 1996. It is submitted that if the Petitioner in Writ Petition is allowed to withdraw this Petition, his clients shall be allowed to be transposed as Petitioners in view of the identical facts and the identical prayer in both Petitions.

5. Learned counsel for Respondents on the other hand, whose clients have applied for intervention in Writ Petition No.3813 of 1996, prayed that if this Court allows withdrawal of this Petition, those Interim Application would become infructuous.

6. Mr. T. D. Deshmukh, learned counsel for Respondent No.7 in the Writ Petition No.3813 of 1996 submits that if this Court allows the prayer of the Petitioners in Writ Petition No.7465 of 2012 for transposition in Writ Petition No.3813 of 1996, the issue of delay on the part of Petitioner in Writ Petition No.7465 of 2012 shall be kept open.
7. Mr. A. I. Patel, Addl. G. P. for the State, states that the statement of the Petitioner in Writ Petition No.3813 of 1996 that he will handover possession of the land to the Government to be accepted. The learned counsel for the Petitioners, Writ Petition No.3813 of 1996 has already made such statement.
8. We accordingly permit Respondent Nos.28 and 29 to be transposed as the Petitioners in Writ Petition No.3813 of 1996. Leave to amend is granted to delete the name of Dr. Farrokh F. Wadia as the Petitioner. Amendment shall be carried out by the newly transposed parties within two weeks from today. Amendment shall be carried out in the copies supplied to

the Respondents also. The issue of delay on the part of Petitioner in Writ Petition No.7465 of 2012 and Respondent No.7 is kept open to be considered by this Court at the time of final hearing of the Writ Petition. Interim relief granted by this Court on 07/06/2006 to continue during the pendency of the Writ Petition No.3813 of 1996 with modification of the order passed by Division Bench of this Court on 20/10/2020.

9. Dr. Sathe, learned Senior Advocate for the Petitioner on instructions seeks permission to withdraw Writ Petition No.7465 of 2012 with liberty to canvas all the contentions raised by the Petitioner in Writ Petition No.3813 of 1996. Liberty is granted. Writ Petition No.7456 of 2012 is disposed off as withdrawn.

10. Hearing of the Writ Petition is expedited. Parties are at liberty to file affidavit-in-reply within two weeks from the date of service of amended copy of the Petition. A copy thereof be served on the Petitioners' Advocate simultaneously. Rejoinder, if

any, shall be filed within two weeks thereafter with a copy to be served on the Respondents' Advocate simultaneously. Parties are at liberty to file brief proposition of law along with the copies of judgments which they propose to rely upon in support of their rival contentions. Copy thereof to be served on the other side.

11. If any amendment permitted earlier in the said Writ Petition No.3813 of 1996 not carried out, the Petitioners now transposed in place of Original Petitioner shall carry out such amendment within two weeks from today.

12. It is made clear that merely because Respondent Nos.28 and 29 are allowed to be transposed as Petitioners in Writ Petition No.3813 of 1996, it would not preclude the Respondents from raising any plea permissible in law, against the Petitioners allowed to be transposed including issue of delay in filing Writ Petition No.7465 of 2012 and in applying for their transposition in Writ Petition No.3813 of 1996.

13. All pending Interim Applications in Writ Petition No.3813 of 1996 to be placed on board on 08/07/2022. If the papers of proceeding in those Interim Applications are not served, it shall be served on the advocates who would be filing vakalatnama for the Petitioners allowed to be transposed.

(M. G. SEWLIKAR, J.)

(R. D. DHANUKA , J.)