

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (ST) NO.11164 OF 2021**

Mira Real Estate Developers ... Petitioner
Versus
The Union of India and Ors. ... Respondents

WITH
FIRST APPEAL NO.1430 OF 2019

Union of India ... Appellant/Applicant
versus
The Estate Investment Company Pvt. Ltd. and Ors. ... Respondents

WITH
INTERIM APPLICATION (ST) NO.97107 OF 2020
WITH
CIVIL APPLICATION NO.384 OF 2019

Mr. Girish S. Godbole with Ms. Rujuta Patil, Ms. Radhika Venugopal i/by Negandhi Shah and Himayatullah, for Petitioner and for Respondent No.2 in FA.
Ms. M.P.Thakur, AGP, for State.
Mr. Ram S. Apte, Senior Advocate with Mr. Aditya Thakkar, Mr. Anil D. Yadav, for Appellant/Applicant and for Respondent No.1 in WP.

**CORAM: S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.**

DATE : 2nd SEPTEMBER, 2021

P.C. :

1. By the above Writ Petition, the Petitioner interalia seeks the following reliefs :

“(a) That this Hon’ble Court be pleased to issue a writ of Mandamus, or a writ in the nature of mandamus or any other appropriate writ, order or direction under Articles 226 and 227 of the Constitution of India, ordering

and directing that the impugned orders dated 29.12.2020 passed by the Respondent No.2 vide Reference No.TD/T-6/KV/KV-4985/4317 and Order dated 26.02.2021 passed in Suo Moto Appeal No.1 of of 2021 by the Respondent No.3 be quashed and set aside the same and pass an order that the mutation entry No.7610 and 7611 shall be and stands restored;

(b) That this Hon'ble Court be pleased to issue writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction under Articles 226 and 227 of the Constitution of India calling for the entire records and proceeding of the case as pertaining to the proceedings of impugned orders dated 03.11.2020 passed by Respondent No.4 for cancellation of Mutation Entry No.7604 read with correction ME No.7640 instead of implementing direction in Order of Ld. Additional Commissioner, Konkan Division, and after going into the legality validity and propriety of the impugned orders, this Hon'ble Court be pleased to quash and set aside the same;

(c) That this Hon'ble Court be pleased to issue writ of mandamus or in the nature of mandamus or any other appropriate writ, order or direction under Sec. 151 of CPC, 1908 and/or Articles 226 and 227 of the Constitution of India directing the Respondents to give complete effect to the directions in Order of Ld. Addl. Commissioner, Konkan Division, dated 08/10/2010 and pass the further Mutations including to approve M.E. No.7604 and issue the updated 7/12 extracts for all Survey Nos. duly mutating the names of Petitioner and said Estate Investment Co. Pvt. Ltd., in compliance of the direction in Order of Ld. Addl. Commissioner, Konkan Division dated 08/10/2010;"

2. When the above Writ Petition was earlier taken up for hearing, the learned Senior Advocate appearing for the Respondent No.1 - Union of India had submitted that the Union of India has filed First Appeal No.1430 of 2019 impugning

the Judgment dated 13th April, 2018 passed by the 7th Joint Civil Judge, Senior Division, Thane, in Special Civil Suit No.771 of 2011, dismissing the Suit filed by the Union of India, whereby it is interalia held that the Plaintiff – Union of India has failed to prove its ownership over the suit property, which First Appeal is admitted by an order dated 9th July, 2021. It was also submitted that if the above Writ Petition is allowed by the Court and the First Appeal filed by the Union of India is allowed, serious prejudice and injury will be caused to the Union of India.

3. Thereafter, pursuant to an application made, the Learned Chief Justice allowed the above First Appeal to be tagged with the above Writ Petition and to be placed before this Court. Accordingly, the matters have been placed today before us.

4. There are two Interim Applications taken out by the Union of India in the First Appeal. The first is Civil Application No.384 of 2019 interalia seeking status quo in respect of the subject land. The second is the Interim Application (ST) No.97107 of 2020, wherein the relief sought is to restrain the modification / change in the revenue records and also similar prayers as sought in Civil Application No.384 of 2019.

5. We have heard the learned Advocates for the parties and we pass the following order :

(i) In the occupancy column of the property card, the name of Mira Real Estate Developers (Petitioner in the above Writ Petition) will be shown.

Necessary changes will be carried out within a period of four weeks from today.

(ii) Though the name of Mira Real Estate Developers will be entered in the occupancy column of the property card, the same shall be subject to the further orders passed by this Court in the First Appeal filed by the Union of India.

(iii) Mira Real Estate Developers, shall until further orders, maintain status quo as of today in respect of the subject land. However, in the event of Mira Real Estate Developers wanting the status quo to be changed in any manner whatsoever, they shall move this Court seeking necessary directions/reliefs, which shall be considered only after hearing the objections of the Union of India.

6. The learned Advocates for the parties have agreed that no detailed reasons be given in support of this order.

7. Hearing of the First Appeal is expedited.

8. All contentions of the parties are kept open.

9. The Writ Petition as well as Interim Application (ST) No.97107 of 2020 and Civil Application No.384 of 2019 are disposed of. Liberty to apply.

(MILIND N. JADHAV, J.)

(S.J.KATHAWALLA, J.)