

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

WRIT PETITION NO.1332 OF 2021

Shri Ramdas Dashrath Sontakke
And Others ... Petitioners
Versus
State of Maharashtra
And Others ... Respondents

**ALONG WITH
WRIT PETITION NO.1590 OF 2021**

Shri Nitin Vasant Gore ... Petitioner
Versus
State of Maharashtra
And Others ... Respondents

**ALONG WITH
WRIT PETITION NO.1591 OF 2021**

Smt. Mangal Tukaram Benke ... Petitioner
Versus
State of Maharashtra
And Others ... Respondents

**ALONG WITH
WRIT PETITION NO.1625 OF 2021**

Shri Nivrutti Khanderao Waghchoure ... Petitioner
Versus
State of Maharashtra
And Others ... Respondents

**ALONG WITH
WRIT PETITION NO.1826 OF 2021**

Shri Tukaram Sitaram Benke ... Petitioner

Chittewan

Versus
State of Maharashtra
And Others ... Respondents

**ALONG WITH
WRIT PETITION NO.1828 OF 2021**

Smt. Vimal Bapuso Bhosale ... Petitioner
Versus
State of Maharashtra
And Others ... Respondents

**ALONG WITH
WRIT PETITION NO.7245 OF 2021**

Shri Balasaheb Mahadu Avchite ... Petitioner
Versus
State of Maharashtra
And Others ... Respondents

**ALONG WITH
WRIT PETITION NO.7246 OF 2021**

Shri Sitaram Sambhaji Benke ... Petitioner
Versus
State of Maharashtra
And Others ... Respondents

**ALONG WITH
WRIT PETITION NO.7254 OF 2021**

Vitthal Ramhari Yedge
And Others ... Petitioners
Versus
State of Maharashtra
And Others ... Respondents

**ALONG WITH
WRIT PETITION NO.7263 OF 2021**

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Mr. S.L. Babar, AGP for the Respondent-State in Writ Petition Nos.1826 of 2021 and 7263 of 2021.

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P. C. :

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2 Respondent Nos.2 to 6 are the Government Agencies and Respondent No.1 is the Government. We have heard Mr. Sachin Deokar, learned Counsel appearing for the Petitioners in all petitions and learned respective AGPs for all Respondents.

3 It is true that land in question has been reserved for rehabilitation of persons, affected by the project of 'Chaskaman'. The mutation entry shows that there are restrictions imposed on the transactions to be effected in respect of land in question. The description of the land is given in paragraph-3 of the respective petitions. The land is situated at Village Alegaon Paga, Taluka Shirur, District Pune. The mutation entries are of the year 1998. It is true that for all these years, the government has not taken any step either for purchase or compulsory acquisition of the said land. Unnecessarily, the respective Petitioner/Petitioners are put to restraint from dealing with the land in question. It certainly violates the rights guaranteed under Article 300A of the Constitution of India. It protects a person against any action, which have the effect depriving the person from using the property. It is permissible only in the manner authorized by the law.

4 No doubt the provisions of The Maharashtra Project Affected Persons Rehabilitation Act, 1999, empower the Government to reserve any particular land to be utilized for rehabilitation of project affected persons. Ultimately, all properties vest in the government. But there is a procedure prescribed under the Act.

5 Ultimately, the State Government has to take decision for rehabilitation of affected persons as contemplated under Section 11 of the 1999 Act. For that purpose, the revenue commissioner has to specify the villages likely to be affected and likely to be benefited as contemplated under Section 11 of 1999 Act. There is time limit prescribed under Section 13(3) of the said Act. The commissioner has to declare extent of area which constitutes affected zone as well as benefited zone. But there is period of 4 years/1 year prescribed. Thereafter, the concerned collector has to call objections. There is no material to suggest that any of the procedure is followed.

6 The period so far elapsed from the year 1998 till the year 2021, does not justify continuation of the entry on 7/12 extract of the land in question, which puts fetter on the rights of the Petitioner to make use of the land as per their wish. Section 12 of the said Act puts a restriction on use of land. But such restriction can be put only as per the procedure established by law. That is the purport of Article 300-A of the Constitution of India. Here there is no material that the procedure has been followed much less within the prescribed time.

7 It is true that this court in other writ petitions have come across with such issue and accepted the request for deleting the remark from 7/12 extracts. The copies of some of orders have been filed. They are in Writ Petition No.5763 of 2017 (along with other connected matters), Writ Petition (St.) No.97784 of 2020, Writ

Petition (St.) No.97622 of 2020 and Writ Petition (St.) No.97604 of 2020.

8 It is true that the Government has issued a Notification on 5 August 2019, thereby laying down the procedure before the deleting the remark from 7/12 extract. The procedure contemplates constitution of a committee headed by Collector and consisting other government representatives. It also contemplates submitting a proposal by the committee to the State Government. It contemplates taking of action by the Collector after an approval by the State Government.

9 However, we are not inclined to insist upon the Petitioners to wait till the time the procedure laid down is followed. It is only for the reason that it is not submitted on behalf of learned AGPs that Pune District has initiated any proposal and it is being forwarded to Government and decision is pending with the Government. If certain information could have been shared with us, then we could have thought of keeping these petitions pending till the decision is taken by the Government. Already long years have elapsed from the time of making an entries on the 7/12 extract. We do not want to put any more fetters on the rights of the Petitioners to make use of the land. Hence, the Writ Petitions deserve to be allowed. Hence, following order is passed.

: O r d e r :

- (a) The Writ Petitions are allowed;

- (b) Respondent Nos.2 to 6 are directed to delete entry of reservation for project affected persons from other right column of the respective 7/12 extracts of the respective lands in question in respective writ petitions;
- (c) **Rule** is made absolute accordingly.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)