

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

INTERIM APPLICATION NO.1417 OF 2020

IN

WRIT PETITION NO.10250 OF 2016

WITH

RAJESH VASANT CHITTEWAN
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Date: 2021.11.27 10:35:13 +0530

CIVIL APPLICATION NO.8 OF 2019

WITH

INTERIM APPLICATION NO.1423 OF 2020

Bansilal Shankar Rasal
And Others

... Applicants/
Org. Petitioner Nos.5 to 9

In the matter between :

Subhash Rambhau Molak
And Others

... Petitioners

Versus

State of Maharashtra
And Another

... Respondents

Mr. Uday P. Warunjikar, learned Counsel for the Applicants/
Petitioners.

Mr. S.B. Kalel, APG for Respondent Nos.1 to 4.

Mr. Rohit P. Sakhadeo for Respondent No.2.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 24 NOVEMBER, 2021

P. C. :

. Mr. Warunjikar, learned Counsel appearing for the
Applicants/Petitioners invited our attention to certain orders of this

court. It is submitted that the petition was listed before this court on 27 April 2018 and learned Counsel appearing for the Petitioners as well as learned Counsel appearing for Respondent No.2 filed minutes of order. Perusal of the order further show that vide clause -(3), the parties were granted liberty to negotiate in view of Section 126 of the MRTTP Act despite pendency of the petition. Mr. Warunjikar, learned Counsel appearing for the Petitioners submitted that in view of the opportunity granted, some of the Petitioners opted for TDR in lieu of compensation, whereas other Petitioners were not inclined for that option. On the backdrop of this fact, the present application was filed.

2 Vide order dated 17 February 2020, notice was issued to Petitioner Nos.1 to 4 and 10, returnable on 16 March 2020. The learned Counsel for the Petitioners was permitted to serve by private notice in addition to court notice. Learned Counsel appearing for the Petitioners submitted that Petitioner Nos.1 to 4 and 10 are duly served by way of private service and the affidavit of service was placed on record. Thus, what reveals from the perusal of the material is that inspite of opportunity granted to Petitioner Nos.1 to 4 and 10 to respond to the present Interim Application by issuing notice and serving them, the Petitioners failed to mark their presence, either personally or by engaging Counsel and have chosen not to respond the notice.

3 In view of this fact, we left with no choice, but to allow the application in terms of prayer clause- (a). Necessary amendment be

carried out within one week from today. By carrying out the amendment and thereby transposing Petitioner Nos.1 to 4 and 10 and placing them in the array of the Respondents, notice be issued to now added Respondent Nos.3, 4, 5, 6 and 7, making the same returnable after six weeks.

4 The Interim Application is disposed of accordingly.

5 Place the petition and along with connecting civil application and interim application on **12 January 2022**.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)