

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

WRIT PETITION NO.2356 OF 2021

Malian Mansukhalal Gandhi Petitioner

Vs.

State of Maharashtra and Ors. Respondents

Mr.Raj Patel i/b M/s.Law Point for the Petitioner

Mr.V.S.Gokhale, 'B' Panel, A.G.P. for the State

Mr.Kevic Setalwad, Senior Advocate a/w Ms.Ekta Dalvi for
the Respondent no.5

**CORAM: K.K.TATED &
RIYAZ I. CHAGLA, JJ.**

DATED : JULY 01, 2021

P.C.

. Heard.

2. Advocate for the Petitioner submits that all the Respondents are duly served by private notice. He undertakes to file affidavit of service within one week. Statement is accepted.

3. Respondent no.5 filed his Affidavit-in-Reply dated 30.06.2021. Same is taken on record.

4. By this Writ Petition, under Article 226 of the

Constitution of India, Petitioner is seeking direction against the Respondent Collector to take action against the developer for recovering the losses caused to the Government Revenue by obtaining irregular exemption certificates under the Urban Land (Ceiling and Regulation) Act, 1976.

5. The learned counsel for the Petitioner submits that for the same cause of action, they already made representation to the Collector dated 14.06.2021 (Exhibit 'E') at page 64 but till today, the Collector has not taken any steps on the same representation. Hence, he has filed the present Writ Petition.

6. The learned Senior counsel appearing for Respondent no.5 submit that Respondent no.5 made a statement in reply before this court that they are ready and willing to deposit the amount if any, as per the order passed by the Collector after holding enquiry. In support of this contention, he relies on paragraph 3 and 26 of his Affidavit-in-Reply dated 30.06.2021 which read thus:

"3. I clarify that the compensation to be compensated to the appropriate department of the said Office of Collector is in relation to plot of law bearing survey nos.569/1 and 663/1 situated at Village Bhayander [herein after referred to as "plot"] only. I am ready and willing to compensate the loss caused if any in relation to the said plot of land without prejudice to my rights and contentions.

26. It is, thus, stated that in light of the facts and circumstances as enumerated herein, I am ready and willing to abide by any conditions and/or orders and/or directions passed by this Hon'ble Court in relation to the said plot of land, in context of any compensation to be paid to the concerned department of the said Office of Collector, for loss caused if any – without prejudice to my rights and contentions."

7. The learned A.G.P. for the State also submit that the Collector will decide the said representation dated 14.06.2021 on its own merits after hearing both the sides.

8. Considering the submissions made by the learned counsel for the Petitioner and as the same issue is pending before the Collector in Application dated 14.06.2021, Writ Petition can be disposed of with following direction:

a. Respondent no.2, Collector, Thane is directed to decide the Petitioner's representation dated 14.06.2021 (Exhibit 'E') at page 64 of petition on its own merits after hearing both the sides and communicate decision in writing.

b. All contention of both the sides are kept open.

c. Writ Petition stand disposed of accordingly.

d. No order as to costs.

(RIYAZ I. CHAGLA, J.)

(K.K.TATED, J.)