

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

**WRIT PETITION NO. 4960 OF 2021
(Sr. No. 32)**

Sayyad Mohammad Javed ...Petitioner
vs.
The State of Maharashtra and Ors. ...Respondents

**WITH
WRIT PETITION NO. 4961 OF 2021
(Sr. No. 33)**

Parag Shripatrao Mate and Anr. ...Petitioners
vs.
The State of Maharashtra and Ors. ...Respondents

**WITH
WRIT PETITION (ST.) NO. 14125 OF 2021**

Tanaji Baban Parkhi ...Petitioner
Vs.
The State of Maharashtra and Ors. ...Respondents

Mr. Sandeep D. Shinde i/by Ergo Juris, for the Petitioner
Mr. R. S. Pawar – AGP for the Respondent-State in WP 4960 of 2021
Ms. M. S. Bane – AGP for the Respondent-State in WP 4961 of 2021
R. M. Shinde – AGP for the Respondent-State in WP(ST) 14125 of 2021

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

DATE : 18th NOVEMBER, 2021

PER COURT:-

. Writ Petition (ST) No 14125 of 2021 not on board. Taken on

board.

2. At the outset learned counsel for the Petitioner submits that the petition bearing Writ Petition (ST) No. 14125 of 2021 also involves identical issue and as such Writ Petition (ST) No. 14125 of 2021 be tagged alongwith present Writ Petitions.

3. Considering the limited issue involved in this Writ Petitions, by consent of both the sides we have taken up these Writ petitions for final hearing at the admission stage itself. Admit.

4. Respondent Nos. 2 to 6 are the executives of Respondent No. 1-State. There is no private Respondent. Accordingly, we have heard the learned counsel for the Petitioners and learned AGP for all the Respondents.

5. The short issue involved in these petitions and it is for how much duration the agricultural land belonging to the Petitioners can be subject to restrictions? The agricultural land is situated at Mauje Maan, Taluka Mulshi, District Pune and its revenue Gat No. 70/1, admeasuring 01 Hectares 81 Ares land situated ad Mauje Man, Taluka Mulshi, District Pune, in Writ Petition No. 4960 of 2021 and and its revenue Gat No. 165/1, admeasuring 2 H 15 Ares land situated ad Mauje Maan, Taluka Mulshi, District Pune in Writ Petition No. 4961 of 2021. There are names of other persons mentioned on 7/12 extract. But they are not the Petitioners.

6. The Respondent No. 1-State has issued notification thereby reserving certain lands at village Mauje Maan, Taluka Mulshi, District Pune being the lands reserved for the purpose of acquiring the land for rehabilitating the project affected persons of Kasarsai Project. Amongst several lands, the land described above is one of the lands. Thus, notification was issued in the year 1992 and 1999. The revenue officers have given effect to the said notification by making an entry in other right column of 7/12 extract as land reserved for the rehabilitating project affected persons of Kasarsai Project. Necessary mutation entries were done in the year 1992 and 1999 respectively.

7. The Petitioners come with grievance that in spite of such entries, the Respondents have not taken further steps in acquiring the land for the purpose for which it was reserved. It continues till 2021. That is why these Writ petitions for issuing necessary directions to the Respondents to remove that remark from other right column of 7/12 extract. There is a Government Resolution dated 5th August 2019 governing the field. It lays down the procedure for withdrawing the restrictions imposed in respect of dealing with the land reserved for the project affected person. According to the Petitioners in respect of this Government Resolution for the last two years, no steps have been taken.

8. When we are heard learned AGP, with limited instructions available at his disposal, he has not come with a submission that all these years any steps are taken for acquiring lands in question.

9. As per the said Government Resolution, the Committee has to be constituted headed by the District Collector and it consists of various representatives of the Government. The Resolution mandates the Committee to send a proposal to the government. It also lays down the format in which the information has to be submitted to the Government. The resolution further states that once the Government will approve the proposal, further action has to be taken by the concerned Collector.

10. The issue is whether the reliefs asked in the Writ Petitions can be granted without procedure laid down in the Government Resolution is being followed. The learned counsel for the Petitioners relied upon a Judgment dated 14th August 2019 passed by Division Bench of this Court in Writ Petition No. 5763 of 2017 and other connected petitions. Though project was different, Division bench has decided with the objection about following procedure laid down in that Government Resolution.

11. Observation made in the earlier order passed by the Division bench of this Court were followed. This Court observed that "there is no time limit fixed for sending of record by the Committee to the Government and taking all decision by the Government on the said proposal in nutshell". This Court has observed that before allowing the petition, Court need not to wait for the following procedure laid down in that GR.

12. Ultimately right to property though not a fundamental right has been recognized by the Constitution of India by way of Article 300-A, it protects a person from any act unless authorized by law. In a case before us, though the provisions of Sections 13,14 and 15 of the Maharashtra Project Affected Persons Rehabilitation Act, 1989 (earlier known as Maharashtra Resettlement of Project Displaced Persons Act, 1976) empowers the Government to declare a particular area in affected or benefited zone. However, the effect of such order could not be given for so long period because ultimately it affects rights of the person to deal with the property. Because Section 12 of the said Act puts a restriction on transfer etc. of the said land. We are convinced that more than reasonable period is granted to the Government to take action as contemplated under the provisions of Maharashtra Project Affect Persons Rehabilitation Act. As no material is placed before us to remotely suggest that any action is contemplated under the provisions of the said Act.

13. In view of that all petitions deserves to be allowed. Hence, we passed the following order: -

ORDER

- 1) The petitions are allowed.
- 2) Respondent Nos. 2 to 6 are directed to delete remark that land is reserved for project affected person from 7×12 extract of the lands involved in this petition.
- 3) Rule is made absolute.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)