

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

948 WRIT PETITION NO.2758 OF 2021

ILAH NABI SAHEB SHAIKH AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
WITH

WRIT PETITION NO.2740 OF 2021

SHIVAPPA MALKAPPA BIRAJDAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. Abhay R. Rathod, Advocate for Petitioners in both the matters
Mrs. R.P. Gour, AGP for Respondent / State in both the matters.
Mr. B.R. Kedar, Advocate for Respondent no.3
in W.P. No.2740 of 2021

...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 06-09-2022

PER COURT :

- . Heard both the sides finally with consent.
2. The petitioners are coming with following prayers:

“B] By issue of writ of mandamus or order or direction in the nature of writ of mandamus kindly direct the respondent no.1 and 2 to pass Award in accordance to the New Act of 2013 as the title of petitioners agricultural lands is vested with the Government respondent No.1 and 2 from CASA respondent No.3 for public purpose of Jawalaga Bet Rehabilitation Project in respect of their agricultural lands Gut No.281 to the extent of 3 H. 24 R. situated at

village Jawalaga Bet, Tq. Omerga, District Osmanabad for Public Purpose of Jawalaga Bet Earthquake Rehabilitation Project and for that purpose issue necessary orders.

OR in the alternate

By issue of writ of mandamus or order or direction in the nature of writ of mandamus kindly direct the respondent No.1 and 2 to pay compensation to the petitioners in accordance to the rates of four times of ready recknor as per the new Act of 2013 as on 27.07.2016 w.e.f. the respective dates of sale of their agricultural lands dated 10.07.1998 which are constructively compulsorily acquired by the respondent No.1 and 2 in respect of their respective agricultural lands gut No.281 to the extent of 3 H. 24 R situated at village Jawalaga Bet, Tq. Omerga, District Osmanabad for Public Purpose of Jawalaga Bet Earthquake Rehabilitation Project and for that purpose issue necessary orders.”

3. Admittedly, the petitioners had sold the writ properties on their own to respondent no.3 – trust. It is the contention of the petitioners that they had sold their properties under a *bona fide* belief that the properties would be utilized for rehabilitation of the earthquake affected persons. They are now seeking that the properties should have been acquired by the Government for the public purpose. The circuitous method was adopted whereby they were persuaded to sell the writ properties to respondent no.3 directly. With such a stand, the reliefs are being claimed.

4. Admittedly, irrespective of the intention of the petitioners, the writ properties were sold by them voluntarily to

respondent no.3 – trust, may be with a benevolent object. The sale-deeds were executed way back in the year 1998. By filing these petitions in the year 2021, the aforementioned reliefs are being claimed.

5. We are afraid, the petitioners are not entitled to turn around after so many years to lay a claim over the writ properties which they have sold to respondent no.3. Even there is a serious error in seeking to invoke writ jurisdiction against respondent no.3 which is a Public Trust not amenable to the writ jurisdiction, independently, with the aforementioned reliefs.

6. The Writ Petitions are dismissed.

(SANDEEP V. MARNE, J.)

(MANGESH S. PATIL, J.)