

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**52 WRIT PETITION NO.7699 OF 2022**

SHIVAJI BHANUDAS MOTE AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND  
OTHERS

...  
Advocate for Petitioners : Mr. Karpe Rahul R.  
AGP for Respondent Nos.1 to 6 : Mr. S. G. Karlekar  
...

**CORAM : RAVINDRA V. GHUGE  
AND  
ARUN R. PEDNEKER, JJ.**

**DATE : 25<sup>th</sup> July, 2022**

**PER COURT :**

1. The petitioners have put forth prayer Clauses 'B', 'C', and 'D' as under :-

(B) Issue writ of certiorari or any other writ or direction in the like nature, thereby kindly quash and set aside the impugned communication letter dated 16/02/2021 issued by the respondent No.4- Deputy Collector, Land Acquisition No.7, Ahmednagar and consequently the written request application (Exh.B) made by father of the present petitioners may kindly be allowed.

(C) Issue writ of mandamus or any other writ or direction in the like nature, thereby kindly direct the respondent No.6- Tahsildar, Newasa to mutate the names of the present petitioners and other family members in the revenue record as per the decree passed by the learned Civil Judge Senior Division, Shrirampur in Regular Civil Suit No.20/1994 in respect of Block No.29 admeasuring 8 Acres 2

Gunthas situated at village Wadala-Bahiroba Ta.Newasa, Dist.Ahmednagar.

(D) Pending hearing and final disposal of this Writ Petition thereby kindly direct the respondent No.6- Tahsildar, Newasa to mutate the names of the present petitioners and other family members in the revenue record as per the decree passed by the learned Civil Judge Senior Division, Shrirampur in Regular Civil Suit No.20 of 1994 in respect of Block No.29 admeasuring 8 Acres 2 Gunthas situated at village Wadala-Bahiroba, Tq.Newasa, Dist.Ahmednagar forthwith.

2. Considering the prayer Clauses, it is apparent that they have a semblance of a request to this Court to execute the Judgment and decree dated 21/04/1995.

3. We could have relegated the petitioners to the remedy of preferring an execution proceeding. However, we cannot turn a blind eye to a specific statement of the Deputy Collector, Land Acquisition No.7, Ahmednagar, that a Circular dated 23/11/1994 empowers her to hold a view that the said decree is not binding and she would not abide by the said decree. She has further observed in the impugned order dated 16/02/2021 that, no Civil Court can exercise jurisdiction in matters of lands which are a part of the acquisition process.

4. We find it quite dangerous, that a revenue officer holds a view on

the basis of a circular issued by the Government, that a particular decree delivered by the Civil Judge Senior Division would have no legal sanctity. This would have serious repercussions. Revenue authorities are likely to be emboldened to hold a view that, they would decide whether, a decree of a particular Civil Court would be binding upon them or not. If the State holds a view that the Civil Court had no jurisdiction to deliver the Judgment and decree, the State was not remedyless.

5. In view of the above, this petition is allowed and the impugned order dated 16/02/2021 stands quashed and set aside.

6. We direct the District Committee, which was earlier directed by this Court vide order dated 12-06-2019, in Writ Petition No.6853 of 2019, to abide by the Judgment and decree dated 21/04/1995 and pass appropriate orders for carrying out the mutation entry. Needless to state, all stake holders, persons concerned with the same, may be heard by the said committee and after giving them an adequate opportunity of hearing, may proceed to pass appropriate orders.

**( ARUN R. PEDNEKER, J. )**

**( RAVINDRA V. GHUGE, J. )**

vjg/-.