

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

WRIT PETITION NO. 5184 OF 2021

**VENKAT S/O AMBAJI KSHIRSAGAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for the petitioner : Mr. Angad L. Kanade
AGP for respondent Nos. 1 to 5 : S.R. Yadav

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WITH

**CIVIL APPLICATION NO. 12819 OF 2021
IN WP/5184/2021**

**MAINABAI SHANKARRAO PARSALGE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Applicant : Mr. S. N. Lale Yelwatkar
AGP for Respondent Nos. 1 to 5 : Mr. S.R. Yadav
Advocate for Respondent No. 6 : Mr. A.L. Kanade

.....

AND

13. WRIT PETITION NO. 5246 OF 2021

**MADHUKAR IRAPPA BHALERAO
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for the petitioner : Mr. Angad L. Kanade
AGP for respondent Nos. 1 to 5 : S.R. Yadav

.....

WITH

**CIVIL APPLICATION NO.12824 OF 2021
IN WP/5246/2021**

**SUBHASH TATYARAO LOHAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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...

Advocate for Applicant : Mr. S. N. Lale Yelwatkar
AGP for Respondent Nos. 1 to 5 : Ms. R.P. Gaur
Advocate for Respondent No. 6 : Mr. A.L. Kanade

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**CORAM : RAVINDRA V. GHUGE &
S.G.DIGE, JJ.**

DATE : 25.04.2022

P.C. :

1. Venkat Ambaji Kshirsagar is the petitioner in writ petition no. 5184 of 2021 and Madhukar Irrappa Bhalerao is the petitioner in Writ Petition No. 5246 of 2021.

2. In both these petitions, identical prayer clauses "B" "C" and "D" are put-forth, which read as under:-

"(B) By issuing a writ of Mandamus or any other appropriate writ, order or directions, to respondents to decide the proposal dated 29.04.2017 forwarded by Divisional Commissioner, (Rehabilitation Branch), Division Aurangabad to Desk Officer, Revenue

and Forest Department (Assistance and Rehabilitation) Mantralaya, Mumbai, regarding issuance of allotment order and sanction letter of house No. U-7/B4 situated at Killari, Tal. Ausa, Dist. Latur in the name of petitioner under the Earthquake Rehabilitation Plan and for that purpose necessary orders may be issued.

(C) The respondents may kindly be directed to make the allotment of house No. U-7/B4 situated at Killari, Tal. Ausa, Dist. Latur in the name of petitioner under the Earthquake Rehabilitation Plan.

(D) The impugned notice dated 5.3.2021 issued by Tahsildar Ausa in the name of petitioner and thereby directing the petitioner to vacate the possession of house No. U-7/B4 situated at Killari, Tal. Ausa, District Latur, may kindly be quashed and set aside and for that purpose necessary orders may be issued.”

3. By an order dated 24-03-2022, passed in both the petitions, the Court has protected the writ houses of both these petitioners considering that their proposals are pending before the Statutory Authority.

4. In Writ Petition No. 5184 of 2021, one Mainabai Shankar Parsalge has filed Civil application and in another writ petition No. 5246 of 2021, applicant - Subhash Tatyarao Lohar has filed civil application. Both these applicants pray for intervention. Their contention is that the houses have been wrongly proposed for allotment to Venkat and Madhukar.

5. Insofar as the applicant-Mainabai is concerned, she is the wife of a Sarpanch, namely, Shankar Parsalge. Her husband has got the allotted house, while he was Sarpanch and he also got a house allotted to Mainabai. No-doubt both have individual houses in the village Killari which suffered a brunt of a massive earthquake on 30-09-1993. Nevertheless, by a benevolent scheme introduced by the State, cluster of houses are constructed so as to accommodate the families and give shelter to them. Policy was not to construct “a house for a house”. Consequentially, Mainabai as well as Subhash had approached this Court against cancellation of their additional houses by filing writ petition No. 6671 of 2006. By order dated 21-09-2006, this Court noted that, the wife of the Sarpanch and other petitioners were allotted houses

individually and there were 20 such couples, which received two allotted houses, illegally.

6. This Court, therefore, was convinced that these persons had grabbed houses. Consequentially, the writ petition was dismissed and the District Collector, Latur was directed to carry out an enquiry and initiate appropriate action.

7. In view of the above, both these applications are not only misconceived, but amount to frivolous litigation. We would have been justified in imposing costs on these two applicants. However, the learned counsel has submitted that costs may not be imposed. As such, both these applications are rejected.

8 Insofar as the petitions are concerned, the proposals of the petitioners are pending before respondent No. 1. During pendency of the proposals, the Tahsildar, Ausa issued them the impugned notice calling upon them to handover the vacant possession of the houses, which according to State have been occupied unauthorisedly, by these two petitioners.

9. Both the petitioners make a solemn statement before us that no other member of the family has received any such allotment and they both had their individual houses in village Killari, which were demolished in the earthquake, for which they are entitled for allotment of houses.

10. Needless to state, if this statement made by both the petitioners turns out to be false, respondent No. 1 would be at liberty not only to reject their proposals, but also initiate action against them for fraudulent acts.

11. In view of the above, both these petitions stand disposed off.

12. We expect respondent No.1 to decide the pending proposals, as expeditiously as possible, and in any case on or before 15th September, 2022 by following the due procedure laid down in the law, while deciding such proposals.

13 The allegations of the local administration against these petitioners are that they are entitled for small houses of 250 square feet each. However, they have indulged in

encroachment.

14. Obviously, respondent No.1 will have to decide these aspects on the basis of the record available.

15. In view of the above, the impugned notice shall be kept in abeyance till passing of the order by respondent No. 1.

(S.G.DIGE, J.)

(RAVINDRA V. GHUGE, J.)

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