

Dusane

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

WRIT PETITION NO.8216 OF 2022

Rajiv Satyanarayan Somani ... Petitioner

Versus

Sara Farhan Lukmani Nee Sara ... Respondents
Elvira Bermudez Decd thru.
Legal Heirs Soledad Gramajo & Ors.

BHALCHANDRA
GOPAL
DUSANE

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BHALCHANDRA
GOPAL DUSANE
Date: 2022.08.12
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Mr. Milind Sathe, Senior Counsel i/by Mr. Manoj Agiwal for Petitioner.
Mr. P.J. Gavhane, AGP for State.
Mr. Ashish Kamat a/w Mr. Kunal Mehta, Ms. Jinelle Gogri, Ms. Smruti
Kanade i/by Negandhi Shah & Himayatullah for Respondent Nos. 1(a) and
1(b).

Mr. R.V. Govilkar a/w Ms. Smita Thakur for Respondent Nos. 2 and 3
(UOI).

**CORAM : S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : 10TH AUGUST 2022

P.C. :

1. We have heard Mr. Sathe, learned Senior Counsel for the Petitioner,
Mr. Kamat, learned counsel for Respondent Nos. 1(a) and 1(b), Mrs.
Gavhane, learned AGP so also Mr. Govilkar, learned counsel for the Union
of India.

2. One of the prayer made by the Petitioner is that the Union of India through Ministry of Finance and Ministry of Home Affairs shall decide the question whether an overseas citizen of India can hold agricultural lands in view of the provisions of Citizenship Act, 1955 and the Notification dated 11th April, 2005.
3. The contour of argument of Mr. Sathe, learned Senior Advocate is that in view of Notification dated 11th April 2005, an overseas citizen of India cannot hold the agricultural land. The Respondent No. 1 claims that the agricultural land is bequeathed to her.
4. Learned Counsel for Respondent Nos. 1(a) and (b) submits that the field is covered by Notification dated 4th March 2021.
5. Whether the Notification relied by the respective parties are placed before both the Houses of Parliament so as to be effective is not on record.
6. The proceedings are pending between the Petitioner and the Respondents before the Civil Court, Tenancy Court. The Petitioner may avail the remedy as may be permissible against the order passed by the Tenancy Court or Mamlatdar as the case may be.

7. As far as prayer clause (a) is concerned, it is for the Petitioner to approach the concerned Department for making a representation. The Petitioner has not approached any such Department and directly filed the Writ Petition to this Court.

8. The Petitioner may approach the concerned Department for seeking necessary information or otherwise.

9. It is made clear that we have not considered the petition on merits of the case. All contentions are kept open.

10. Writ Petition is disposed of. No costs.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)