

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6893 OF 2022**

Anthony John Pereira,
Age: 75 years, Occ. Business.
Indian inhabitant having his office
at Building No. 21-B, Shop No. 6,
Amol Nagar, Naigaum (West),
Taluka, Vasai, Pin No. 401 207
District-Palghar.

...Petitioner.

V/s.

1. Vasai-Virar City Municipal Corporation, a body constituted under the provisions of the Maharashtra Municipal Corporation Act, 1949, having its registered office at Virar(East), Taluka Vasai, District Thane Pin No. 401 305.
2. Deputy Director of Town Planning, Vasai Virar Municipal Corporation having its office at Main Office, Virar, Tal: Vasai, Dist: Palghar-401305.
3. State of Maharashtra, through its Department of Environment Forest and Climate change, Mantralaya, Mumbai 400 032.
4. The District Collector, Palghar, State of Maharashtra, having its office at Parshvanath-9, CIDCO Corner, Palghar, Taluka, District- Palghar.

...Respondents.

**WITH
WRIT PETITION NO. 4096 OF 2022**

1. Mr. Jones J. Pereira.
 2. Vegas J. Pereira.
 R/o. Jones Palance, Durga Nala,
 Vadavali, Vasai (West),
 Dist. Palghar.
 (Partners of J.V. Builders,
 a partnership firm having their
 office at Opp. Umele Church,
 Naigaon Church, Tal. Vasai,
 Dist. Palghar.

...Petitioners.

V/s.

1. State of Maharashtra
 through the Chief Secretary
 Environment Department
 Mantralaya, Mumbai 400 032.
2. The Municipal Commissioner
 Head Office-Vasai-Virar city
 Municipal Corporation,
 Opp. Virar Police Station,
 Bazar Ward, Virar(East),
 Tal. Vasai, Dist. Palghar.
3. Deputy Director of Town
 Planning Department,
 Head Office, Vasai-Virar City
 Municipal Corporation,
 Opp. Virar Police Station,
 Bazar Ward, Virar(East),
 Tal. Vasai, Dist. Palghar 401305.

4. The Collector, Dist. Palghar.

...Respondents.

Mr. Atul Damle, Sr. Counsel a/w. Mr. Abbas Zaidy i/b. Zohair and Company for Petitioner in WP 6893 of 2022.

Mr. R.R. Salvi a/w. Mr. Ausgre Corvalho i/b. Ms. Suvarna Telgote, for Petitioners in WP 4096 of 2022.

Mr. A.I. Patel, Addl. G.P. a/w. Mr. R.P. Kadam, AGP for Respondent Nos. 3 and 4-State in WP 6893/2022 and for Respondent No. 1 in WP 4096/2022.

Ms. Swati Sagvekar for Respondent Nos. 1 and 2- VVCMC in WP 6893/2022 and for Respondent Nos. 2 and 3 in WP 4096/2022.

**CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.
DATED : OCTOBER 10, 2022**

P.C. :

1. Leave to amend is granted as prayed in Writ Petition No. 4096 of 2022 to include the description of the property in the prayer clause. Amendment to be carried out forthwith.
2. Heard the learned Counsel for the Petitioners in both the Petitions and the learned Counsel for the Respondents.
3. Rule. Rule is made returnable forthwith with the consent of the parties.
4. The reliefs sought by the Petitioners in both these petitions are identical. The Petitioners seek a declaration that the respective lands of the Petitioner bearing Survey Nos. 245 to 281 situated at

Juichandra, Taluka Vasai, Dist. Palghar containing Layout file No. BP-356/VP-0737 do not form part of the Wetlands in the Brief Documents prepared for Palghar District, Maharashtra. Accordingly, the Petitioners seek a Writ of Certiorari against the decision taken by the Respondent No.1 vide letter dated 4th April, 2022 in the Writ Petition No. 6893 of 2022. The petitioner in Writ Petition No. 4094 of 2022 has prayed for similar reliefs and also prayed for the quashing of the decision vide letter dated 21st August, 2018.

5. Mr. Patel, learned AGP tenders an affidavit in reply in both these matters and invites our attention to the averments made in paragraphs 3 and 4 and the chart describing the properties which are not part of the land mentioned in the report submitted vide letter dated 22/8/2016 by the Collector Office, Palghar.

6. It is thus a common ground that the lands of the Petitioners are not part of the Wetland as per the communication report dated 22/8/2018 by the Collector Office, Palghar. In our view, there shall not be any impediments allowing to carry out development, subject to other compliance. Both the Writ Petitions are made absolute.

7. Writ Petition No. 6893 of 2022 is allowed in terms of prayer clause (a), (b) and (c).

8. Writ Petition No. 4096 of 2022 is allowed in terms of prayer clause (b).

9. If any permission is applied for construction work in respect of the lands in question, the same shall be considered by the Municipal Corporation expeditiously.

10. Both the Writ Petitions are disposed of accordingly.

(KAMAL KHATA, J.)

(R.D. DHANUKA, J)