

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14645 OF 2022

Vimal Motiram Paradhi & Ors.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

NILAM
SANTOSH
KAMBLE

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Mr.Kishor Patil a/w Mr.S.N. Biradar i/b Mr.Dinesh R. Shinde for
the Petitioners.

Mrs.M.S. Bane, AGP for Respondent Nos.1 to 4-State.

CORAM : R.D. DHANUKA &
S.G. DIGE, JJ.

DATE : 28 NOVEMBER 2022

P.C:-

1. Mr.Patil, the learned counsel for the Petitioners seeks
leave to delete the Respondent No.5 from the array of the
Respondents. Leave granted. Amended copy to be served upon
the Respondents. Re-verification is dispensed with.

2. Rule. The learned AGP waives service for all
Respondents. Rule is made returnable forthwith. Heard finally
by consent of the parties.

3. By this Petition filed under Article 226 of the
Constitution of the India, the Petitioners are seeking direction

against the Respondents to hold and declare that the notices dated 18 November 2022 and 23 November 2022 issued by Respondent No.3 are illegal.

4. The learned counsel for the Petitioners invited our attention to the judgment of the Supreme Court in case of *Jagpal Singh V/s. State of Punjab and Others*¹, in particular paragraph No.23 and also the order passed by Division Bench of this Court on 6 October 2022 in Suo Moto PIL No.2 of 2022 in the case of *High Court in its own Motion V/s. State of Maharashtra and Others* and submitted that without giving any prior notice of hearing, the Petitioners who are alleged to be in possession for quite sometime are sought to be disposed by the learned Tahsildar.

5. The learned AGP is not in a position to controvert the statement as to whether any personal hearing was granted to the Petitioners or not before issuing the notices to the Petitioner.

6. We accordingly pass the following order.

ORDER

(i) The impugned notices shall be considered as show cause notices.

¹ (2011) 11 Supreme Court Cases 396

(ii) The Petitioners are at liberty to reply to the show cause notices within one week from today and to produce the documents in support of their rival contentions before the Respondent No.2-Collector within one week from today.

7. Mr.Patil the learned counsel for the Petitioners on instructions, states that these Petitioners would authorize one of the persons to represent their interest to the Respondent No.2 at the time of the hearing. The statement is accepted.

8. The Respondent No.2-Collector shall grant personal hearing to the representative of the Petitioners on 9 December 2022 at 11.00 a.m.

9. The learned Collector shall pass an order on those two notices within two weeks thereafter. The order to be passed shall be communicated to the Petitioners within one week thereafter. If any adverse order is passed against the Petitioners, the Respondents shall not take any coercive steps against the Petitioners for a period of two weeks from the date of communication of such order.

10. It is made clear that this Court has not expressed any view on the notices issued by the Tahsildar. All contentions of both parties are kept open.

11. Rule is made absolute.

12. The Petitioner shall not carry out any construction and part with possession in favour of the third party in respect of the aforesaid structure during the pendency of the proceedings before the Respondent No.2-Collector and for the period of two weeks from the date of the communication of the order.

(S.G. DIGE, J.)

(R.D. DHANUKA, J.)