

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

WRIT PETITION NO. 3444 OF 2022

Sadashiv Tukaram Raskar and Ors. ... Petitioners

Versus

The State of Maharashtra and Ors. ... Respondents

Mr. Kailas Dewal i/b Mr. Yash Dewal for the Petitioner.

Mr. A.P. Vanarase, AGP for the Respondent Nos.1 to 5-State.

**CORAM: R. D. DHANUKA AND
M.M.SATHAYE JJ.**

DATE : 2nd FEBRUARY 2023

PC. :-

1. Rule. Mr. Vanarase, Learned AGP waives service for Respondent Nos. 1 to 5. Rule is made returnable forthwith. Heard finally by consent of the parties.

2. This petition is filed under Article 226 and 227 of the Constitution of India, seeking direction to Respondent / State to delete effect of Mutation entry No. 13760 from the other rights column of 7x12 extract of the Petitioners' land bearing Gat No. 3957 situated at Mouje Talegaon Dhamdhere, Taluka Shirur, Dist. Pune (hereinafter 'the Petitioners' land or the writ land' for short) and for

other reliefs.

3. It is the case of the Petitioners that they are the owners of the writ land, which comes under the benefited zone of Chaskaman Project and was accordingly notified in the year 1979. That initially vide Mutation Entry No. 1630 dated 05.07.1990 an endorsement of “reserved for rehabilitation of the project affected person” was made in the writ land’s revenue record which remained until recently, when pursuant to G.R. dated 11.02.2022, the said endorsement is removed and a new endorsement has been effected that ‘keeping intact right of the State Govt. under provisions of rehabilitation laws, transfer for only agriculture purpose is permitted’ under Mutation entry Nos. 13720 & 13760

4. Mr. Dewal, Ld. Counsel for the Petitioners invited our attention to said Mutation entry Nos. 13720 & 13760 and the latest 7x12 extract of the writ land, pointing out aforesaid endorsement in the other rights column. He invited our attention to Order dated 17.09.2013 passed in W. P. No. 5207 of 2013, Order dated 21.06.2016 passed in W. P. No. 6243 of 2016, Order dated

21.12.2016 passed in W. P. No. 10742 of 2016 in respect of similarly situated other lands. Also in respect very same Chaskaman Project, one more Order dated 17.10.2018 in W. P. No. 2821 of 2018 is pointed out. He submitted that in these orders, this Court has directed the Respondent / State to remove such restrictive endorsements in respect of various similarly situated lands.

5. He submitted that the Respondent, after making such endorsement of reservation, has not taken any steps within prescribed period, as provided under the concerned Rehabilitation Acts and as such the reservation on the writ land has lapsed. He urged that due to such restrictive mutation entries, citizens like Petitioners can not deal with their own lands and it creates indefinite fetter on their rights to enjoy their properties. He finally invited our attention to an Order passed by this Court dated 2nd March 2022 passed in a batch of writ petitions with lead Writ Petition No. 5185 of 2021 and contended that the G.R. dated 11.02.2022 is considered therein, basis which, the said Mutation entry No. 13720 & 13760 is effected.

6. Indeed, in series of Judgments and Orders, this Court has taken a consistent view that private lands of the citizens like Petitioner cannot be kept under continuous and indefinite fetter, without initiating and completing action for allotment to project affected persons. If the Respondent-State wants to allot any of these lands to project affected persons, necessary steps must be taken and completed in time bound manner, otherwise the subject matters land must be released from such endorsement/s on 7/12 extract.

7. Learned AGP for the Respondent-State contended that the endorsement in other rights column of Petitioners' land is only to the extent of 'keeping intact State's right under rehabilitation statutes, but allowing sale transactions for agricultural purpose'. Apart from this, learned AGP for the State could not distinguish facts of the present matter from the facts of above said orders.

8. In our view, even if sale transaction is permitted for agricultural purpose, when the endorsement keeps the right of State to acquire land intact, the permission remains conditional and makes the right of the Petitioners to deal with their land/s conditional

indefinitely. In our latest Order dated 03.01.2023 passed in group of petitions with lead W.P. No.15822 of 2022 we have considered identical set of facts. We are therefore of the view this matter is covered by aforesaid Judgments and Orders taking consistent view.

9. In that view of the matter, we pass the following order :

(i) The State Government is directed to complete the process of allotting the Petitioners' land which are declared as part of the benefited zone, for allotment to the project affected persons, if required, and the said process shall be completed within six months from today, without fail.

(ii) It is further directed that if the Petitioners' land is not allotted as stated above, the mutation entries effected in its 7/12 extracts about reservation for project affected persons, be deleted without further reference to the Court within two weeks from the date of expiry of six months. It is directed that no further extension of time would be granted for the same.

(iii) It is further directed that if the entire process of allotment of Petitioner's land is not over within a period of six months from today as stated above, the Petitioners would be at liberty

to deal with the Petitioners' land in the manner they desire.

(iv) It is further made clear that the Government Resolutions dated 18th January, 2022 and 11th February, 2022 shall be read with this order, so far as its application to the Petitioners' land is concerned.

(v) Writ Petition is disposed of accordingly. Rule is made absolute in above terms. No order as to costs.

(vi) All concerned to act on authenticated copy of this order.

[M.M.SATHAYE,J.]

[R. D. DHANUKA, J.]