

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

WRIT PETITION NO. 2086 OF 2023

Santosh Soma Dakve ..Petitioner
V/s.
The Union of India and Ors. ..Respondents

WITH

WRIT PETITION NO. 2088 OF 2023

Jayant Vitthal Sutar ..Petitioner
V/s.
The Union of India and Ors. ..Respondents

WITH

WRIT PETITION NO. 2089 OF 2023

Chandrakant Baburao Taware ..Petitioner
V/s.
The Union of India and Ors. ..Respondents

WITH

WRIT PETITION NO. 2090 OF 2023

Vilas Bhagoji Sangale ..Petitioner
V/s.
The Union of India and Ors. ..Respondents

WITH

WRIT PETITION NO. 2091 OF 2023

Prajwalal Vinesh Goasvi ..Petitioner
V/s.
The Union of India and Ors. ..Respondents

WITH

WRIT PETITION NO. 2093 OF 2023

YUGANDHARA
SHARAD
PATIL

Digitally signed
by
YUGANDHARA
SHARAD PATIL
Date: 2023.03.04
12:46:13 +0530

Piraji M. Naukudkar ..Petitioner
V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2094 OF 2023**

Aditi Mahendra Sangale ..Petitioner
V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2590 OF 2023**

Mr. Pramod Kirshnakant Tiwari ..Petitioner
V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2608 OF 2023**

Mrs. Sangeeta Praful Tikam ..Petitioner
V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2591 OF 2023**

Mr. Sachin Sadanand Ramane ..Petitioner
V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2609 OF 2023**

Mrs. Shobha Shivaji Kshirsagar ..Petitioner
V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2610 OF 2023**

Mrs. Shalini Raghunath Mhatre (Deceased) thr. Legal Heirs V/s. The Union of India and Ors.	..Petitioner ..Respondents
---	---------------------------------------

**WITH
WRIT PETITION NO. 2611 OF 2023**

Mr. Manoj Keshav Maladkar V/s. The Union of India and Ors.	..Petitioner ..Respondents
--	-----------------------------------

**WITH
WRIT PETITION NO. 2592 OF 2023**

Mrs. Reshma Vilas Shigwan V/s. The Union of India and Ors.	..Petitioner ..Respondents
--	-----------------------------------

**WITH
WRIT PETITION NO. 2612 OF 2023**

Entraj Baldev Bind V/s. The Union of India and Ors.	..Petitioner ..Respondents
---	-----------------------------------

**WITH
WRIT PETITION NO. 2593 OF 2023**

Mr. Sandip Nathu Dhonde V/s. The Union of India and Ors.	..Petitioner ..Respondents
--	-----------------------------------

**WITH
WRIT PETITION NO. 2594 OF 2023**

Mr. Parshuram Madhukar Kamat	..Petitioner
------------------------------	--------------

V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2595 OF 2023**

Mr. Jayram Arjun Tovaskar
(since Medically Unfit) thr. Lrs. ..Petitioner

V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2596 OF 2023**

Mr. Rajesh Prabhakar Gaikwad ..Petitioner

V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2597 OF 2023**

Ishwar Buddhadas Ingle ..Petitioner

V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2598 OF 2023**

Bablu Dani Mishra ..Petitioner

V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2599 OF 2023**

Shashikant Parasnath Mourya ..Petitioner

V/s.
The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2600 OF 2023**

Mr. Sandesh Gangaram Sangle	..Petitioner
V/s.	
The Union of India and Ors.	..Respondents

**WITH
WRIT PETITION NO. 2601 OF 2023**

Mr. Pundlik Subhash Gaonkar	..Petitioner
V/s.	
The Union of India and Ors.	..Respondents

**WITH
WRIT PETITION NO. 2602 OF 2023**

Mr. Dashrath Subhash Gaonkar	..Petitioner
V/s.	
The Union of India and Ors.	..Respondents

**WITH
WRIT PETITION NO. 2603 OF 2023**

Mrs. Prabhavati Devi	..Petitioner
V/s.	
The Union of India and Ors.	..Respondents

**WITH
WRIT PETITION NO. 2604 OF 2023**

Sunil Dayaram Sharma	..Petitioner
V/s.	
The Union of India and Ors.	..Respondents

**WITH
WRIT PETITION NO. 2605 OF 2023**

Ravindra Laxman Nakti	..Petitioner
V/s.	

The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2606 OF 2023**

Omprakash Vasant Nesvankar ..Petitioner

V/s.

The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 2607 OF 2023**

Suvarna Omprakash Nesvankar ..Petitioner

V/s.

The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 5765 OF 2023
(Not on board)**

Ramanaiah Ramesaram Mothadi ..Petitioner

V/s.

The Union of India and Ors. ..Respondents

**WITH
WRIT PETITION NO. 5827 OF 2023
(Not on board)**

Vaibhav Parshu Ghevade ..Petitioner

V/s.

The Union of India and Ors. ..Respondents

Mr. V.A. Gangal a/w Mr. A.R. Kulkarni, Ms. Shweta Parab for the Petitioners.

Mr. R.V. Govilkar Senior Advocate a/w Ms. Leena Patil for Respondent No. 1-Union of India in all Wps.

Ms. Pradyna R. Bansode for the Respondent No. 2 in all Wps.

Mrs. M.S. Bane AGP for Respondent Nos. 3 and 4 in all Wps.

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

DATE : 1st MARCH 2023

PC.

1. Rule. Mr. Govilkar, learned Senior Counsel for Respondent No. 1 waives service. Ms. Bansode, for Respondent No. 2 waives service. Mrs. M.S. Bane, learned AGP waives service for all Respondent Nos. 3 and 4. Rule made returnable forthwith. By consent of the parties, the matters are taken up for final hearing.

2. Issues arising in all these bunch of Petitions are identical and therefore, they are disposed of by the common Order.

3. Petitioners have impugned the notice dated 27th January 2023, calling upon the Petitioners to vacate their respective tenements. Petitioners have also prayed for directions against Respondent Nos. 2 and 3 not to take possession of Petitioners room unless and until compensation is determined for tenements in their possession as described in prayer clause (b) of the Petitions.

4. Mr. Gangal, learned Senior Counsel for the Petitioners has

relied upon draft supplementary award made on 6th May 2017, determining the compensation in respect of some of the structures possessed by the Petitioners.

5. Learned Counsel also placed reliance on Judgment delivered by this Court on 3rd August, 2020 in Writ Petition (St.) No. 2511 of 2020 in case of **Premier Limited Vs. Union of India and others**, directing that Respondent Nos. 3 and 4 therein shall pay due compensation to the Petitioner and such other persons who may lodge claim thereto as per award No. 54 of 2015 from the period of six weeks from the date of receipt of said order with interest at the rate of 6 per cent per annum, on the compensation amount to be paid to the Petitioners, from the date of deposit of the award amount by the Central Government till the date of payment to the Petitioners.

6. This Court also directed the competent authority to issue notice in the writing to the Petitioners and such other persons who may be found in possession of the land in question to surrender or hand over possession to the competent authority within 60 days

from the date of receipt of said notice and in the event of refusal or failure to comply with directions of the competent authority, Respondent No. 3 shall take appropriate action in terms of Section 20-I(2) of the Indian Railways Act, 1989. (hereinafter referred to as “the Act”)

7. It is case of the Petitioners that notices are however now issued calling upon the Petitioners to vacate their respective structures without paying any compensation. Learned Counsel states that though in the draft supplementary award, the competent authority has determined some compensation, eligibility of the Petitioners is not yet decided.

8. Learned Counsel for Respondent No. 2 on the other hand opposed these Petitions on the ground that Petitioners have carried out construction to their respective tenements much after the period of second notification issued by the competent authority and were not found in possession when the joint measurement was taken by the competent authority. According to Respondent No. 2, the Petitioners are in unauthorised occupation and have carried out

unauthorised construction on the land under acquisition. She submitted that insofar as compensation in respect of land in question is concerned, compensation has been already paid by Respondent No.2 to the owner of the land i.e.Premier Limited and thus nothing is payable to the Petitioners.

9. Mr. Govilkar, learned counsel for Respondent No. 1 for Union of India, on the other hand, submitted that there is no provision for preparation of any supplementary award under the provisions of Railways Act and thus no cognizance of such supplementary award can be taken. He submitted that, in any event,the compensation already paid to Premier Limited by Respondent No. 2, would cover compensation, not only payable to the Premier Limited but also payable to the Petitioners, if any.

10. Learned AGP for Respondent Nos. 3 and 4 relied upon the said draft supplementary award and submitted that since Respondent No. 2 has not approved the said draft supplementary award as far back as on 2017, the draft supplementary award could not be made final and could not be released by competent authority.

11. At this stage, we do not propose to go into the issue whether such draft supplementary award could have been already prepared by the competent authority or not in respect of the structures possessed by the Petitioners, if any.

12. A perusal of the Order passed by Division Bench of this Court on 3rd August 2020 and more particularly paragraph nos. 46, 50 and 52 would clearly indicate that this Court has taken cognizance of the structures having been constructed on the land under acquisition. This Court accordingly directed competent authority to pay due compensation to the Premier Limited and also to such persons who have lodged their claim as per award No. 54 of 2015.

13. Under Section 20-D(1) of the Act, any person interested in the land is entitled to raise any objection within the time prescribed under the said provisions. In this case, no notices were given by the competent authority in compliance with the order passed by this Court on 3rd August 2020. Be that as it may. The possession of Petitioners, in respect of some of the structures, having been

constructed on the land under acquisition, is not disputed.

14. The eligibility of these Petitioners to claim compensation in respect of structures in their possession, if any, has not been decided till date. Under Section 20-F of the Railways Act, 1989, the amount payable as compensation can be determined by an order of the Competent Authority.

15. Mr. Gangal, learned counsel for the Petitioners on instructions state that his clients would file requisite documents with the competent authority within a period of one week from today without fail with a copy to be served upon Respondent No. 2. Upon filing of such documents, competent authority would decide the issue of eligibility within four weeks thereafter in accordance with Section 20-F of the Indian Railways Act, 1989. Further steps shall be taken by the competent authority upon determination of amount payable as compensation in accordance with the provisions of the Indian Railways Act, 1989.

16. Under Section 20-H(3) of the Act, where several persons claim

to be interested in the amount deposited, the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them. As soon as the amount is deposited, the competent authority shall on behalf of the Central Government pay the amount to the persons entitled thereto. The amount determined has to be deposited by the Central Government in the said manner as prescribed by the State Government before taking possession of the land.

17. It is made clear that upon depositing of the amount if any, payable under the order that would be passed by the competent authority under Section 20-F of the Act, the competent authority would be at liberty to ask for possession of their respective structures from Petitioners in compliance with Section 20-I of the Act. The competent authority thereafter shall follow procedure under Section 20-I(1) of the Act.

18. Upon determination of the compensation and upon depositing the amount, if any, the Petitioners to hand over vacant possession of their respective structures to the competent authority within the time

prescribed.

19. Writ Petitions are disposed of in the aforesaid terms. No order as to costs. It is made clear that during this period, Petitioners shall not create any third party right in respect of the structures in their possession and shall not carry out any further constructions without permission of Respondent No. 2 or Municipal Corporation, as the case may be. It is made clear that this Court has not expressed any views on the merits of the claim of eligibility made by the Petitioners. All contentions of all the parties are kept open. Respondent No. 2 shall not take any coercive steps against Petitioners in respect of the structures in question during this period.

[M.M.SATHAYE,J.]

[R. D. DHANUKA, J.]