

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No.3692 OF 2023

VAISHALI
ANIL
TIKAM

Rajaram Ramchandra Harne

since deceased

...Petitioner

Vs.

The Union of India and Ors.

...Respondents

WITH

WRIT PETITION No.3693 OF 2023

Smt. Manisha Madhukar Kadam

...Petitioner

Vs.

The Union of India and Ors.

...Respondents

WITH

WRIT PETITION No.3694 OF 2023

Prashant Keshav Mali

...Petitioner

Vs.

Union of India and Ors.

...Respondents

WITH

WRIT PETITION No. 3695 OF 2023

Yogesh Shivram Sawale

...Petitioner

Vs.

Union of India and Ors.

...Respondents

WITH

WRIT PETITION No. 3696 OF 2023

Shivaji Tabaji Ghaytadke

...Petitioner

Vs.

Union of India and Ors.

...Respondents

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WITH

WRIT PETITION No. 3689 OF 2023

Mrs. Shilpa Shankar Gaikwad ...Petitioner

Vs.

The Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 3690 OF 2023

Shri Dipesh Virjibhai Vaan ...Petitioner

Vs.

The Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 3691 OF 2023

Shri Naveenkumar Virjibhai Vaan ...Petitioner

Vs.

The Union of India and Ors. ...Respondents

WITH

WRIT PETITION No.3877 OF 2023

Vinod Harishchandra Manyar ...Petitioner

Vs.

Union of India and Ors.

State of Maharashtra

Thr. Sec. School Education Dept. and Ors. ...Respondents

WITH

WRIT PETITION No.3879 OF 2023

Ramdas Daulat Bhogal ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 3880 OF 2023

Shubhangi Charudatt Newage ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 3882 OF 2023

Mukesh Omkar Patil ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No.3883 OF 2023

Sharad Mogal Bhawar ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 3885 OF 2023

Subhash Shriram Gavakar ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 3887 OF 2023

Mrs. Rupali Babu Amruskar ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No.3901 OF 2023

Andrew Anthony Cardoza ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 3888 OF 2023

Mrs.Shamika Satish Gharat ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 3890 OF 2023

Ashish Dattaram Muknak ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No.3891 OF 2023

Yashwant Vithoba Naik ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 3893 OF 2023

Dilip Jagannath Karle ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No.3894 OF 2023

Ganesh Bhagwan Waingankar ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No.3895 OF 2023

Anand Gangaram Shigwan ...Petitioner

Vs.

Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 4870 OF 2023

(On Production Board.)

Rajesh Omprakash Kori ...Petitioner

Vs.

The Union of India and Ors. ...Respondents

WITH

WRIT PETITION No.4871 OF 2023

(On Production Board)

Shri Harishkumar Patel ...Petitioner

Vs.

The Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 4872 OF 2023

(On Production Board)

Smt. Sangeeta Ashok Mhaske ...Petitioner

Vs.

The Union of India and Ors. ...Respondents

WITH

WRIT PETITION No.4873 OF 2023

(On Production Board)

Mr. Gotu Mahadev Rathod ...Petitioner

Vs.

The Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 4874 OF 2023

(On Production Board)

Shri Ajit Ramdas Kadam ...Petitioner

Vs.

The Union of India and Ors. ...Respondents

WITH

WRIT PETITION No. 4875 OF 2023

(On Production Board)

Shri Santosh Ramesh Narvekar ...Petitioner

Vs.

The Union of India and Ors. ...Respondents

WITH
WRIT PETITION No.4876 OF 2023
(On Production Board)

Shri Namdev Keshav Dhandrut ...Petitioner

Vs.

The Union of India and Ors. ...Respondents

Mr.V.A. Gangal a/w. Mr.A.R. Kulkarni a/w. Ms. Shweta Parab,
Advocates for the Petitioners (In Writ Petitions at Serial No. 909)

Mr. R.V. Govilkar, Senior Counsel a/w. Mr. Niranjana Shimpi for
Respondent No.1 (In Writ Petitions at Serial No.909)

Ms. Pradnya Bansode, Advocate for Respondent No.2 (In Writ
Petitions at Serial No.909)

Ms. Sushma S. Bhende, AGP for State- Respondent Nos. 3 and 4 (In
Writ Petitions at Serial No.909)

Mr. V.A. Gangal a/w Mr. A.R. Kulkarni a/w. Ms. Shweta Parab,
Advocates for the Petitioners (in Writ Petitions at Serial No.910)

Mr. R.V. Govilkar, Senior Advocate a/w. Mr. Niranjana Shimpi,
Advocate for Respondent No.1- UOI (In Writ Petitions at Serial
No.910)

Mrs. M.S. Bane, AGP for State (in Writ Petitions at Serial No.910)

Ms. Pradnya Bansode, Advocate for Respondent No.2 (in Writ
Petitions at Serial No.910)

Mr.A.R. Kulkarni a/w. Ms. Shweta Parab, h/f Mr.V.A. Gangal

Advocates for the Petitioners (In Writ Petitions at Serial No. 501 Production Board.)

Mr. R.V. Govilkar, Senior Advocate a/w. Mr. Niranjana Shimpi, Advocate for Respondent No.1- UOI (In Writ Petitions at Serial No.501 Production Board)

Ms. Pradnya Bansode, Advocate for Respondent No.2 (In Writ Petitions at Serial No.501, Production Board)

Mr. N.K. Rajpurohit, AGP for State (in Writ Petitions at Serial No.501, Production Board)

**CORAM:- R.D. DHANUKA &
GAURI GODSE, JJ.**

DATE :- 6 APRIL, 2023

P. C.:

1. Rule. Respondents waives service. Rule is made returnable forthwith. By consent of parties, all the bunch of petitions are taken up for hearing at the admission stage.

2. By these Petitions filed under Article 226 of the Constitution of India, the Petitioners seek a Writ of Certiorari for quashing and setting aside the impugned Notice dated 27 January, 2023 issued by Respondent Nos.2 and 3 and for a Writ of Mandamus, directing Respondent Nos.2 and 3 not to take possession of the writ property unless and until the

compensation for structure of the Petitioners standing on the part of the land bearing 244/2 Village Bhopar, Taluka Kalyan, District Thane is determined and paid .

3. Mr. Gangal, learned counsel for the Petitioners in all Petitions relied upon an order passed by this Court on 1 March, 2023 in Writ Petition No. 2086 of 2023 in case of **Santosh Soma Dakve Vs. The Union of India and Ors.** and other bunch of Petitions and submitted that the facts and issues involved in this bunch of petitions are identical to the facts and case involved in case of **Santosh Soma Dakve** and bunch of petitions and similar orders be passed by this Court in this bunch of petitions.

4. Learned counsel for Respondent No.2 and Learned AGP for Respondent Nos.3 and 4 have no objection if the similar order is passed in the bunch of petitions.

5. Mr. Govilkar, Learned Senior Counsel for Respondent No.1, however, invited our attention to the judgment delivered by this Court on 3 August, 2020 in Writ Petition (St) No. 2511 of 2020 in case of **Premier Limited Vs. Union of India and Ors.** which was in respect of acquisition of the same land and submitted that in view of the

observations made by this Court in paragraph 48 of the said judgment, in which it was made clear, according to the Learned Senior Counsel, that if any claims are made by the encroachers, it is for the competent authority to determine entitlement of such persons to compensation and the quantum within the overall amount awarded to the Petitioner for acquisition of the land in question.

6. It is submitted by the Learned Senior Counsel that in view of the said observation made by this Court in the said judgment, the authority would now consider the claims of the Petitioners in view of the observation made by this Court in paragraph 48 of the said judgment.

7. This Court also observed that it is not very clear as to whether any claim for compensation has been made by such encroachers or not and if made, it is for the competent authority to determine entitlement of such person to compensation and the quantum within the over all amount awarded to the Petitioner for acquisition of the land in question. In paragraph 52, this Court made it clear that the Respondent No.3 shall pay the due compensation to the Petitioner i.e. Premier Limited and such other person(s) who

may lodge claim thereto as per Award No. 54 of 2015 within a period of six weeks from the date of receipt of this order. This Court also made it clear that Respondent No. 3 shall issue notice in writing to the Petitioner and such other person(s) who may be found to be in possession of the land in question to surrender or handover possession to the competent authority within a period of 60 days from the date of receipt of the notice.

8. This Court in case of **Santosh Soma Dakve Vs. The Union of India and Ors.** while disposing of the bunch of petitions by order dated 1 March, 2023 considered the said judgment dated 3 August, 2020 passed by this Court and clarified in paragraph 12 that the judgment of this Court dated 3 August, 2020, this Court has taken cognizance of the structures having been constructed on the land under acquisition and accordingly, had directed the 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. This Court also observed that the eligibility of these Petitioners to claim compensation in respect of structures in their possession, if any, has not been

decided till date. This Court accordingly granted liberty to the Petitioners to file requisite documents with the Authority and directed the authority to decide such claim on its own merits and in accordance with law.

9. The learned Senior Counsel for the Respondent No1, could not produce the copy of the award to verify whether the award which was the subject matter of the Writ Petition (St) No. 2511 of 2020 filed against the Union of India and Ors. i.e. being Award No. 54 of 2015 included the compensation not only for the land but also the structures constructed thereon, which are the subject matter of these petitions. The Petitioners proposed to lodge their claim before the Authority in respect of the structures on the said land.

10. Mr. Gangal, learned counsel for the Petitioners, on instructions, states that his clients would file requisite documents with competent authority within a period of one week from today without fail with a copy to be served upon Respondent No.2. Statement is accepted.

11. 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. The other directions issued and observations made

by this Court in the said order dated 1 March, 2023 in case of **Santosh Soma Dakve (supra.)** would form part of this order.

20. Writ Petitions are disposed of in aforesaid terms. Rule is made absolute. No order as to costs. All parties to act on the authenticated copy of this order.

(GAURI GODSE, J.)

(R.D.DHANUKA, J.)