

Amol

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

**WRIT PETITION NO. 8136 OF 2014
WITH
INTERIM APPLICATION NO. 3596 OF 2022
IN
WRIT PETITION NO. 8136 OF 2014**

Sant Nirankari Mandal & Anr	...Petitioners
<i>Versus</i>	
State of Maharashtra & Ors	...Respondents

Ms Minal Chandnani, *for the Petitioner in both Writ Petitions & Applicant in IA/3596/2022.*

Ms SS Bhende, AGP, *for the Respondent-State.*

Mr Yogesh Patil, i/b Vijay Patil, *for Respondent No. 9, in WP/8136/2014.*

Ms Shraddha Chavan, i/b Vinod Tayade, *for Respondents Nos. 11 & 12.*

CORAM **G.S. Patel &
Neela Gokhale, JJ.**
DATED: **26th June 2023**

PC:-

1. Heard.

2. Writ Petition No 8136 of 2014 pertains to a conveyance deed dated 24th April 2002 issued in favour of one Shivibai Okana Mothi and others and a site plan dated 30th August 2003. The 1st Petitioner is a registered Public Trust. These lands are in Ulhasnagar city and according to the Petitioners are part of the compensation pool created under Section 14 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954. They are said to have vested in the Central Government.

3. The case in the Petition is that Respondents Nos. 10 (deceased), 11 and 12 have fraudulently managed to acquire a Conveyance Deed No. SDO/PLOT/C-1/CDR-45 dated 24th April 2002. The Petition has been amended. Original prayers (a) to (b) at page 26 read as follows:-

“(a). That the ***conveyance deed SDO/PLOT/C-1/CDR-45 dated 24/4/2002*** issued in favour in three persons viz. (1) Smt.Shibibai Okana Mothi, (2) Shir Kanti Okana Waghari and (3) Shri Morar Okana Waghari and the site plan dated 30/8/2003 issued along with the conveyance deed may kindly be cancelled or the departmental reference for cancellation of the same may kindly be made;

(b). That this Hon’ble Court may be pleased to finally allow the applications made by the Petitioners to competent authorities”

4. Amended prayers (b1), (b2) and (b3) read thus:-

“(b1) That this Hon’ble Court be pleased to issue a Writ of Mandamus thereby directing the Respondent 2 to 5 and 9 to implement the letter dated 11th May 2012 bearing No. City Survey Ulhasnagar/ Bhuppradhan Mr No.207/2011 dated

11th May, 2012 written by the City Survey Officer, Ulhasnagar to the Sub-Divisional Officer, Ulhasnagar;

(b2) That this Hon'ble Court be pleased to issue a Writ of Mandamus thereby directing the Respondents 2 to 5 and 9 to implement the letter bearing no. City Survey/ Ulhasnagar Government Measurement/U No.29/2015, Outward, 2015 addressed by City Survey Officer, Ulhasnagar to the Sub-Divisional Officer, Ulhasnagar along with the measurement plan made by the Sheristedar in the office of City Survey, Ulhasnagar, checked by Sheristdar Ulhasnagar and confirmed by City Survey officer, Ulhasnagar dated 9th October, 2015 being **Exhibit Z-12 Colly.**;

(b3) That this Hon'ble Court be pleased to issue a Writ of Mandamus thereby directing the Respondent 4 to cancel the ***plans dated 24th April, 2002*** and 30th August, 2003 issued along with the conveyance deed dated 24th April, 2002."

5. We express no opinion on the merits of the controversy but we do not believe that such reliefs, framed in this manner, are permissible in exercise of our writ jurisdiction. The relief is nothing but a prayer for delivery and cancellation of a registered conveyance followed by some sort of an order regarding possession. The amended prayers seem to seek a mandamus to certain authorities, notably the Sub Divisional Officer, to act in a particular manner, i.e., to decide the Petitioners' case in a particular manner. Such a relief is never possible.

6. The Petitioners have filed a ***Revision Petition No. 3 of 2020*** before the Authorized Chief Settlement Commissioner. That

Revision Petition may not have all the material that has become available to the Petitioners in this Writ Petition, particularly since there has been an amendment and there are Affidavits in Reply including by the private Respondents.

7. It seems to us obvious that the Petitioners' case on merits will have to be heard either by a competent authority with sufficient jurisdiction or be the subject matter of proceeding before a Civil Court if it pertains to title and possession. That the authority before whom the Revision Petition is filed is capable of hearing and taking up the Revision Petition is not in dispute.

8. We believe that although this Petition has been pending for a long time, it can be disposed of today with a direction to the authority, namely the Authorized Chief Settlement Commissioner, to dispose of the Revision Petition as early as possible and preferably within 12 weeks from today. While doing so, the authority will permit the Petitioner to bring on record in the Revision Petition all additional material that may now be available to the Petitioner. That disposal will have to be on merits and the disposal of this Writ Petition will not prejudice the decision on merits in the Revision Petition.

9. It is open to the Petitioners to file an interim application in the Revision Petition for interim reliefs including stay. It goes without saying that the contesting private Respondents will have to be given notice and will have to be afforded an opportunity of hearing before any final order is passed.

10. One last observation remains. This Writ Petition was filed in 2014 and, unfortunately, has remained pending admission since then. The consequences of that delay cannot possibly be visited upon the Petitioner, should it at all become necessary to approach a Civil Court. Consequently, the time spent in prosecuting this Writ Petition will have to be excluded from any computation of limitation if a Civil Court is to be approached.

11. Writ Petition No. 8136 of 2014 is disposed of in these terms. The pending Interim Applications are infructuous and are disposed of accordingly.

(Neela Gokhale, J)

(G. S. Patel, J)

Note: This order is modified by an order dated 4th July 2023 passed on a praecipe. Corrections are shown in bold and italics.

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by CITALAXMI
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KOTAWADEKAR
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