

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

Writ Petition No. 6655 of 2017

Kaluram Bhikoba Ingavale
since deceased through legal heirs

Narayan Bhikoba Ingavale & ors. ... Petitioners
v/s.

The State of Maharashtra & others ... Respondents

Mr Atul Damle, Sr Advocate a/w Mr Ameya Tamhane for the
petitioners.

Ms M P Thakur, AGP for respondents 1-6-State.
Ms Meena H Doshi for respondent No.7.

**CORAM : SUNIL B.SHUKRE &
R.N. LADDHA, JJ.**

8 June 2023

P.C.

Heard learned counsel for the parties.

2. Rule. Rule made returnable forthwith. Heard finally by consent
of the parties.

3. The grievance of the petitioners arises from the notification dt.

26 August 2009 whereby impression was gathered by the petitioners that their respective lands were deleted from the Agricultural and No Development Zone and included in the residential zone. However, the factual position obtaining in the field has now been clarified by the affidavit-in-reply filed on behalf of respondent Nos.1,3, 4 and 5 dt. 22 February 2020. This affidavit-in-reply having been filed on behalf of the State, would bind the State by whatever statements having been made in the affidavit. In paragraph-5, it is stated that the lands of the petitioners are not included in the notification in question, which is notification dt.26 August 2009. The same statement with further elaboration is reiterated in paragraph-7 of the affidavit which, for the sake of convenience, are reproduced as below:

“7. I say that on considering the report of the Officer appointed for hearing under Section 20(3) and after consultation with the Director of Town Planning, Maharashtra State Government sanctioned the said modification. It is submitted that the Government has rightly followed all legal procedure as prescribed under Section 20(3) and 20(4) of the said Act. The modification does not include the lands owned by the petitioners i.e. S.No.249/2, 251/2/2 and 259/2/2 of village Bhugaon, Taluka Mulshi for the District of Pune. Plans showing lands that were proposed to be modified under Section

20(3) and the modification that were sanctioned by Government under Section 20(4) both are annexed as ***Exhibit-1***. It is clear that the status of the Petitioners land is unchanged as per this notification of sanction to the modification. The Petitioners are not at all affected by any means. Therefore, contentions of the Petitioners have no basis. The status of Petitioners land is as per sanctioned Regional Plan and is entitled to put it in use as per the provisions of sanctioned Regional Plan.”

4. The above referred clarification given by the State serves the purpose of the petition and, therefore, the petition deserves to be disposed of in terms of the clarification given in the said affidavit.

5. Accordingly, the petition is disposed of in terms of the above referred clarification appearing in the affidavit-in-reply dt. 22/02/2020 filed by the State.

6. Rule is made absolute in the above terms.

(R.N. LADDHA, J)

(SUNIL B.SHUKRE, J)