

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****INTERIM APPLICATION NO.14603 OF 2023****IN****WRIT PETITION NO. 8709 OF 2023**

Shri Basant Kumar Jain ..Applicant
IN THE MATTER BETWEEN

Shri Prakash Kartar Bijlani & Ors ..Petitioners

Versus

State of Maharashtra & Ors ..Respondents

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Mr. B. K. Jain, Applicant appeared in-person.

Mr. Yuvraj Narwankar, with *Mr. Suraj Gurav, Jayashri Mane*, Advocates for the Orig. Petitioner.

Ms. M. S. Bane, AGP, for the Respondent State.

**CORAM : B. P. COLABAWALLA, J &
M. M. SATHAYE, JJ.**

DATE : NOVEMBER 9, 2023

P.C.

The above Interim Application is filed by the Applicant seeking to intervene in the above Writ Petition and to add him as a party Respondent No.5. The other prayer in the Interim Application is to join Smt. Amruta Dnyaneshwar Gurav as a party Respondent No.6 to the above Writ Petition. As far as adding Smt. Amruta D. Gurav is concerned, the Applicant, who

has appeared in-person today, has stated that he is not pressing for the said prayer. The said statement is accepted.

2 As far as joining the Applicant is concerned, the learned counsel appearing on behalf of the Petitioners has stated that without prejudice to the rights and contentions of the Petitioners, the Petitioners have no objection if the Applicant is joined as party Respondent No.5 in the above Writ Petition. In view of the aforesaid statement, we direct that the Petitioners shall join the Applicant herein, namely, Shri Basant Kumar Jain as party Respondent No.5 in the above Writ Petition. This amendment shall be carried out within a period of four weeks from today and the amended copy of the Petition as well as the papers and proceedings in the above Writ Petition shall be served on all the Respondents, including the newly added Respondent, within a period of one week thereafter.

3 The above Interim Application is disposed of in the aforesaid terms. However, there shall be no order as to costs.

4 We have noted that the main prayer in the above Petition is to direct the Respondents to remove the entire

encroachment on CTS No.17 Final Plot No.246 and handover the property free from all encumbrances including deleting all reservations in the development plan, to the Petitioners.

5 There is a serious dispute between the Petitioners and Shri. Basant Kumar Jain [who is now ordered to be joined as Respondent No.5 in the above Petition], with reference to the entitlement to the said property and to whom the same should be handed over to. However, both of them are in agreement that the encroachments on the said CTS No.17 Final Plot No.246 have to be removed as per the order dated 25th May, 2009 passed by the Settlement Commissioner for the Compensation Pool Properties-Cum-Custodian of Evacuee Properties, Maharashtra State, Mumbai.

6 It is common ground before us that this order has not been challenged by any party, and therefore, has attained finality. We have perused the order passed by the Settlement Commissioner. In this order, the Settlement Commissioner has directed that the Managing Officer shall take immediate action to evict the encroachers from the said property as per the applicable law without violating the order of the High Court in the pending

Appeals. We are informed that these Appeals have now been disposed of.

7 In these circumstances, we asked Ms. Bane, the learned AGP to take instructions as to when they would start their action for removing the encroachers from the property described hereinabove. Ms. Bane submitted that she will take instructions from the concerned officers and inform the Court on 30th November, 2023.

8 Considering the stand taken by Ms. Bane, we now place the above Writ Petition on Board for directions on 30th November, 2023. After these instructions are received, we will then consider of passing further orders and directions in the Writ Petition.

9 It is needless to clarify that the Government shall ensure that no further encroachments are created on the property which forms the subject matter of the present Petition.

10 List the above Writ Petition along with Interim Application No.13529 of 2023 on 30th November, 2023 for directions.

11 This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M. M. SATHAYE, J.]

[B. P. COLABAWALLA, J].