

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10024 OF 2023
WITH
INTERIM APPLICATION (ST) NO. 33526 OF 2023
IN
WRIT PETITION NO. 10024 OF 2023
WITH
INTERIM APPLICATION NO. 16704 OF 2023
IN
WRIT PETITION NO. 10024 OF 2023

D Dahyabhai and Co Pvt Ltd & Anr ...Petitioners
Versus
The State of Maharashtra through its Urban ...Respondents
Development & Ors

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Mr Pravin Samdani, Senior Advocate, with Hrushi Narvekar & Samit Shukla, i/b Jain Law Partners LLP, for the Petitioners.
Mr Kedar Dighe, Addl. GP, for the Respondent State and for the Applicant in IA/16704/2023.
Mr Aseem Naphade, with Nikhil Waje & Vishesh Srivastav, for the Applicant in IAST/33526/2023.
Mr Ram Apte, Senior Advocate, i/b Mandar Limaye, for the Respondent-TMC.

CORAM G.S. Patel & Kamal Khata, JJ.

DATED: 15th December 2023

PC:-

1. The State Government had filed an Interim Application (L) No. 16704 of 2023 seeking the joinder of the Director of the Sanjay Gandhi National Park since, according to the State Government, the land in question is a reserved forest.

2. On this IA, there is an order of 16th October 2023, which says that a reply of the Petitioners would be necessary to that Interim Application. The Petitioners were given liberty to file a Reply. They have filed an Affidavit in Reply saying that the joinder of the director of SGNP is not necessary.

3. Prima facie, we agree with the Petitioners. That joinder is not necessary. The question is about the entitlement of the Petitioners to transferable development rights against land that was the subject of the reservation and has subsequently been transferred to the Thane Municipal Corporation. In any case, the State Government is already a party though through the Urban Development Department. All that is necessary is an order, one that we make immediately, permitting the State Government to be represented not only through the UDD but also through the Revenue and Forest Department. The State Government may file an Affidavit if it wishes through either the Director of the SGNP or anybody else about the exact status of the lands/forest.

4. The lands were subjected to of the Maharashtra Private Forests (Acquisition) Act 1975. The Petitioners challenged

proceedings and orders under that Act and ultimately succeeded up to the stage of the Maharashtra Revenue Tribunal. The State Government has come to this Court in a Writ Petition No. 3205 of 2018 which is as yet pending before this Court before a learned single Judge. There is no stay.

5. The present Petition is filed in 2023 for the following relief,

“(b) This Hon’ble High Court be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India, ordering and directing the Respondents to, issue/allot the said TDR/DRC against park reservation No. 4 (said reservation) area admeasuring 404721.02 sq mts which has been acquired vide registered Deed of Transfer dated 24th May 2019 registered under Serial No. TNN5-8450-2019 to the Petitioner No.1 within a period of 2 weeks from the date of order or such other time as this Hon’ble High Court may deem fit and proper.

6. We do not see the purpose in keeping either of these Petitions pending indefinitely. The Petitioners’ submission before us today is simply on the basis of compensation in the form of TDR for part of the land that is so affected. The Petitioners are contesting the State Government Writ Petition. Thus, there is clear commonality of facts and parties between the two Writ Petitions.

7. We believe it would be convenient to hear both matters together. The State Government’s Writ Petition No. 3205 of 2018 is before a Single Bench. The Registry will obtain necessary orders on the administrative side clubbing the State Government’s Writ

Petition with this Writ Petition and assigning both to an appropriate Bench. Both matters will be tagged together and will be taken up sequentially.

8. List the matter for directions on 5th January 2024.

9. In the meantime, liberty to the State Government to file an Affidavit, if it so wishes, through the Director of the SGNP in the present Writ Petition. That is to be filed and served by 2nd January 2024.

10. The Interim Application is disposed of in these terms.

(Kamal Khata, J)

(G. S. Patel, J)