

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9704 OF 2022**

Sau. Rohini Madhusudan Bhosale

....Petitioner

V/s.

State of Maharashtra & Ors

...Respondents

Mr. Rajendra Haridas for Petitioner.

Mr. B. V. Samant AGP for Respondent Nos.1 to 5-State.

Mr. Suyash S. Sule i/b Mr. Drupad Patil for Respondent No.6.

CORAM : K.R. SHRIRAM &

Dr. N. K. GOKHALE, JJ

DATED : 14th SEPTEMBER 2023

PC. :

1 Petitioner claims to be the owner of agricultural land bearing Survey No.105, admeasuring 1.23 Hectare of agricultural land at Village Devghar, Taluka Mulshi, District Pune, being land bearing Survey No.105/1/B (the said land). The said land is the subject matter of this petition.

2 Petitioner claims to have purchased the said land alongwith two others by a Registered Sale Deed dated 30th March 1981. Abutting the said land, is the huge project of respondent no.6 being Sahara Aamby Valley City. It is petitioner's case that respondent no.6 constructed a dam near the said land owned by petitioner, as a result of which, water that gets collected in the dam flows into petitioner's land submerging the entire land. According to petitioner, the said land has become marshy, water logged and totally unusable for the purpose it was acquired by petitioner. Petitioner states that

various notices have been sent to respondent no.6 and also to respondent nos.1 to 5 in vain. Notices have also been sent to the Minister of Government of Maharashtra, who also directed respondent no.3 to have a meeting of all parties to see how the matter could be resolved. Since no resolution is sought, this petition came to be filed.

3 One of the prayer in the petition is to issue a writ of mandamus directing respondent nos.1 to 5 or any of them as this Hon'ble Court may deem fit and proper to take action of revoking the permission granted by respondent nos.1 to 5 to respondent no.6 to construct and have lakes / dams and to accumulate water in the same.

4 Mr. Samant states that he appears for respondent nos.1 to 5. No reply has been filed though on 23rd February 2023, respondent nos.1 to 3 were directed to file affidavit in reply within three weeks and respondent nos.4 to 6 were directed to file reply within two weeks of receiving service of papers and proceedings. Mr. Sule states that the papers were received by respondent no.6 long ago but advocate on record Mr. Patil received the instructions only a month ago. Except silence and apology, we do not receive any explanation from advocates for not filing the reply.

5 But considering the prayer noted above, Mr. Samant's statement that terms for constructing the dam has been given by the Irrigation Department, we direct the Principal Secretary of Irrigation Department, State of Maharashtra to treat this petition as an application for revoking the terms granted for constructing the dam, consider the application and pass

necessary orders after hearing petitioner and respondent no.6. The order to be passed shall be a reasoned order dealing with all submissions of the parties. Principal Secretary shall dispose the matter within 12 weeks from today. Notice for personal hearing shall be communicated atleast five working days in advance.

6 All rights and contentions of the parties are kept open.

7 Petition disposed.

(Dr. N. K. GOKHALE, J.)

(K.R. SHRIRAM, J.)