

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

WRIT PETITION NO.15822 OF 2022

Balasaheb Pandharinath Dhamdhere & Ors. ...Petitioners
Versus
The State Of Maharashtra And Ors. ...Respondents

**WITH
WRIT PETITION NO. 15823 OF 2022**

Prakash Sadashiv Dhokale & Ors. ...Petitioners
Versus
The State Of Maharashtra And Ors. ...Respondents

**WITH
WRIT PETITION NO. 15824 OF 2022**

Shobha Shivaji Ghode ...Petitioner
Versus
The State Of Maharashtra And Ors. ...Respondents

**WITH
WRIT PETITION NO.15825 OF 2022**

Vilas Babanrao Gavare ...Petitioner
Versus
The State Of Maharashtra And Ors. ...Respondents

**WITH
WRIT PETITION NO. 15866 OF 2022**

Shivaji Sonba Dhore ...Petitioner
Versus
The State Of Maharashtra And Ors. ...Respondents

**WITH
WRIT PETITION NO. 7788 OF 2022**

Ashwini Baldevraj Malhotra son
son and Legal Hrs of Deceased

Late Baldevraj S. Malhotra

...Petitioner

Versus

The State Of Maharashtra And Ors.

...Respondents

Shri Sachin H. Deokar, for Petitioners in all writ petitions.

Mr. N.K. Rajpurohit AGP for the Respondent-State in
WP/15822/2022, WP/15823/2022, WP/15824/2022 & 7788/2022.

Mr. A.P. Vanarase AGP for the Respondent-State in WP/15825/2022,
WP/15866/2022.

**CORAM : R.D.DHANUKA, AND
M.M.SATHAYE, JJ.**

DATE : 3rd JANUARY 2023

PC.

1. Rule. Rule is made returnable forthwith. Learned AGP waives service for the Respondent/State. Taken up for final disposal by consent.

2. These petitions are filed under Article 226 of the Constitution of India seeking direction to the Respondents-State to delete the entries of 'reservation for project affected persons' from the other rights column of 7/12 extracts of the lands of Petitioners, as described in prayer clause (b) of these petitions.

3. It is the case of the Petitioners that the subject matters lands are falling in the benefited zone and as such either full or part of the subject matter lands are kept under reservation for the allotment of project affected persons of Chaskaman or Gunjavani or Kukadi

project. It is further case of the Petitioners that because of endorsement of the reservation, they cannot deal with their land/s and Government has also not initiated any action for allotment of these lands to the project affected persons. As a result, there is indefinite fetter on the Petitioners' right to enjoy subject matters lands.

4. Learned counsel for the Petitioners has invited our attention to various orders passed by this Court earlier viz. Order dated 17.09.2013 passed in Writ Petition No. 5207 of 2013, Order dt. 17.10.2018 passed in Writ Petition No. 2821 of 2018, Order dt. 14.08.2019 passed in batch of Writ Petitions with leading Writ Petition No. 5763 of 2017, Order dt. 17.02.2020 passed in Writ Petition No. 1578/2020 1567, 1474, 1475 and 1476 all of 2020, Order dt.27.10..2020 passed in group of Writ Petitions with leading Writ Petition No. 5077 of 2020, Order dt. 05.08.2021 passed in Writ Petition No.2508 of 2021, Order dt. 11.08.2021 passed in Writ Petition No. 8629 of 2018, Order dt. 07.10.2021 passed in Writ Petition No. 1601 of 2021 and Writ Petition No. 716 of 2021, Order dt. 15.11.2021 passed in group of Writ Petitions with leading Writ Petition No. 1332 of 2021 and latest Order dt. 02.03.2022 passed in group of Writ Petitions with leading Writ Petition No. 5185 of 2021.

5. Perusal of all these orders show that this Court has taken consistent view that private lands of the citizens like Petitioners cannot be kept under continuous and indefinite fetter, without initiating any action for allotment to project affected persons. If the Respondent-State wants to allot any of these lands to project affected persons, necessary steps must be taken and completed in

time bound manner, otherwise the subject matters land must be released from such endorsement/s on 7/12 extract.

6. Learned AGP for the Respondent-State contended that the endorsement in other rights column of Petitioners' land/s is only to the extent of keeping State's right of acquisition intact, however, it is clarified in the endorsement that sale transaction for agricultural purpose is permitted. Apart from this, learned AGP for the State could not distinguish facts of the present matter from the facts of the above said orders.

7. In our view, even if sale transaction is permitted for agricultural purpose, when the endorsement keeps the right of State to acquire land intact, the permission remains conditional and makes the right of the Petitioners to deal with their land/s conditional indefinitely. We are therefore, of the view that these matters are covered by aforesaid Judgments and Orders taking consistent view.

8. In that view of the matter, we pass the following order :

(i) The State Government is directed to complete the process of allotting the Petitioners' land/s which are declared as part of the benefited zone, for allotment to the project affected persons, if required, and the said process shall be completed within six months from today, without fail.

(ii) It is further directed that if the Petitioners' land/s is/are not allotted as stated above, the mutation entries effected in its 7/12 extracts about reservation for project affected persons, be deleted without further reference to the Court within two weeks

from the date of expiry of six months. It is directed that no further extension of time would be granted for the same.

(iii) It is further directed that if the entire process of allotment of land/s is not over within a period of six months from today as stated above, the Petitioners whose land/s has/have been placed under the benefited zone, would be at liberty to deal with their land/s in the manner they desire and the State Government shall not initiate any acquisition proceedings in respect of the Petitioners' land/s which are subject matter of these petitions, after expiry of six months.

(iv) It is further made clear that the Government Resolution dated 18th January, 2022 and 11th February, 2022 shall be read with this order, so far as its application to the Petitioners' land/s is concerned.

(v) All Writ Petitions are disposed of. Rule is made absolute in above terms. There shall be no order as to costs.

(vi) All concerned to act on an authenticated copy of this order.

[M.M.SATHAYE, J.]

[R.D.DHANUKA, J.]