

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

WRIT PETITION NO.362 OF 2023

Bhikubhai Dahyabhai Gohil and Ors. ... Petitioners

Versus

Chhoutubhai Govanbhai Gohil and Ors. ... Respondents

Mr. Mandar Soman a/w Mr. Hardik Joshi for the Petitioners.

Mr. Mayuresh Lagu for Respondent Nos. 1 to 3, 5,6,8 to 11 and 14.

Mr. H.S. Venegaonkar a/w Mr. Ayush Kedia and Mr. Harsh Dedhia
for the Respondent No. 12.

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

DATE : 23rd FEBRUARY, 2023

PC. :-

1. Mr. Soman, learned counsel for the Petitioners seeks liberty to delete Respondent Nos. 7 and 13 from the cause title of the Petition.

In so far as Respondent No. 7 is concerned, learned Counsel Mr. Soman at this stage states that the matter be referred to Civil Court, also against Respondent No. 7.

2. By consent of the parties present in the Court, following order is passed:-

ORDER

(a). Affidavits filed by Respondent Nos. 2,6, 10 and 14 are taken on record.

(b) Respondent Nos. 2 and 6 have undertaken to deposit the entire compensation of Rs. 3,03,68,350/- including the amount of Rs. 11,00,000/- as mentioned in paragraph no. 3 of the said Affidavit dated 22nd February 2023, excluding the sum of Rs. 25,00,000/- which is supposed to have been paid to Jalaram Traders by the Competent Authority. The amount shall be deposited within two weeks from today before the learned Senior Division Judge, Dadra and Nagar Haveli, Silvassa. Statement made by learned counsel for the contesting Respondent Nos. 2,6,10 and 14 is accepted as undertaking to this Court. Factum of deposit of amount shall be communicated to the learned Counsel for the Petitioners within three days from the date of such deposit.

(c) By consent of the parties the dispute between the Petitioners and contesting Respondents i.e. Respondent Nos. 1 to 11, 13 and 14 is referred to Civil Judge, Senior Division, Dadra and Nagar Haveli, Silvassa, arising out of the compensation decided by the Competent

Authority in respect of the land under acquisition. Civil Suit No. 59 of 2022 filed by the Petitioners shall be heard and decided by the Civil Court.

(d) In so far as amount of Rs. 25,00,000/- paid to Jalaram Traders is concerned, Petitioners would be at liberty to pray before Civil Court, Dadra and Nagar Haveli, Silvassa for deposit of the same by impleading said Jalaram Traders. In so far as amount that would be deposited by Respondent Nos. 2 and 6 in Court is concerned, Mr. Lagu, learned Counsel for Respondent Nos. 1 to 3,5,6,8 to 11 and 14, states that sum of Rs. 1,50,00,000/- which was obtained by Respondent No. 14, on 4th January 2023 with ICICI Bank has been deposited in fixed deposit for the period of 15 months and so far the amount deposited by Respondent No. 6 with HDFC Bank is for 15 months and 1 day.

(e) Learned Counsel undertakes to deposit both these fixed deposits receipts with Civil Judge, Senior Division, Dadra and Nagar Haveli, Silvassa within two weeks from today. It is made clear that balance amount would be deposited to make the figure of Rs. 2,78,68,350/-. A copy of the fixed deposits obtained by Respondent

Nos. 14 and 6 shall be furnished to Petitioners Counsel within 1 week from today.

(f) It is made clear that Petitioners as well as contesting Respondents would be at liberty to apply for withdrawal of the amount that would be deposited by Respondent Nos. 2,6 and 14 by filing appropriate application with a copy to be served on other sides. Civil Judge, Senior Division, Dadra and Nagar Haveli, Silvassa to consider such application after hearing both parties on its own merits. If the Civil Judge, Senior Division, Dadra and Nagar Haveli, Silvassa comes to conclusion that both parties are entitled to withdraw the amount out of the amount deposited by Respondent Nos. 2,6 and 14 and after the said amount would be deposited by Jalaram Traders, Civil Judge, Senior Division, Dadra and Nagar Haveli, Silvassa to pass an appropriate order for encashment of the fixed deposit if required. Till such time the Applications that would be filed by parties are decided, Civil Judge, Senior Division, Dadra and Nagar Haveli, Silvassa, to invest the amount that would be deposited by the Respondents, in the fixed deposit of Nationalised Bank for such period as he may think it proper.

(g) It is made clear that this Court has not expressed any view on the merits of the rival claim of the parties. All contentions of both parties are kept open. Writ Petition is disposed of in the aforesaid terms.

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

[M.M.SATHAYE,J.]

[R. D. DHANUKA, J.]