

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2592 OF 2024

Dwarkanath Ramlal Tiwari

...Petitioner

Versus

The State of Maharashtra & Ors

...Respondents

Mr. Swati Sagvekar, Advocate for the Petitioner.

Mr. A.I. Patel, Addl. GP, a/w Dhruti Kapadia, AGP, for
Respondent-State.

Mr. Vinayak Lawate, Under Secretary is present in Court.

CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.

DATE : FEBRUARY 27, 2024

PC :

1. The above Writ Petition is filed seeking following relief:

“a. That this Hon’ble Court be pleased to issue a Writ of Mandamus or a writ in the nature of or any other writ, order or direction under Article 226 of the Constitution of India thereby directing the Respondent No. 1 to decide the representation pending before it at the earliest i.e., on or before March 7, 2024;

b. That this Hon’ble Court be pleased to issue a Writ of Mandamus or a writ in the nature of or any other writ, order or direction under Article 226 of the Constitution of India thereby directing the

Respondent No. 1 to accept the amount of premium as stipulated in notification dated March 8, 2019, under protest & if required to be paid by the Petitioner, keeping the rights and contentions of the Petitioner open;

2. The learned AGP stated that the Application is filed by the Petitioner only in the month of February, 2024 and it is not possible to decide the said Application on or before 7th March, 2024. The importance of this date is because the unearned income that has to be paid by the Petitioner for converting his land from Occupancy Class-II to Occupancy Class-I is 50% of the unearned income as per the current notification. However, after 7th March, 2024 they would be liable to pay 75%.

3. The learned Advocate appearing on behalf of the Petitioner submitted that she would, without prejudice to the rights and contentions of the parties deposit the 50% unearned income with Respondent No.3 and thereafter Respondent No.1 can decide the representation of the Petitioner in a time frame set out by the Court. She submitted that if the Application is decided in the Petitioner's favour then the Government can appropriate the deposit made with them. On the other hand, if the Application is decided against them, then the amount should be refunded back to the Petitioner.

4. Considering the stand taken by the Petitioner, we dispose of the above Writ Petition by directing that the 50% of the unearned income in relation to the land which forms the subject matter of this Petition shall be deposited by the Petitioner with Respondent No.3 on or before 6th March, 2024. If the aforesaid deposit is made, the representation of the Petitioner pending before Respondent No.1 shall be decided as expeditiously as possible and in any event within a period of six weeks from today. In the event, it is decided in favour of the Petitioner, the amount deposited by the Petitioner towards unearned income can then be appropriated by the Government as per its rules and regulations and further orders can be passed to process the aforesaid land being converted from Occupancy Class-II to Occupancy Class-I. In the event, the representation of the Petitioner is turned down by Respondent No.1 then the amount deposited towards unearned income shall be forthwith refunded to the Petitioner, and then, he shall be entitled to take whatever recourse available to him in accordance with law.

5. The Writ Petition is accordingly disposed of in the aforesaid terms. However, there shall be no order as to costs.

6. 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.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]