

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

WRIT PETITION NO. 5381 OF 2024

RAMESHWAR
LAXMAN
DILWALE

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by RAMESHWAR
LAXMAN
DILWALE
Date: 2024.10.07
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- | | | |
|-----|--------------------------------------|---|
| 1. | Nama Kanha Chaudhari | } |
| | Age: 69 Occupation: Farming | } |
| 2. | Rama Bemtya Nirguda | } |
| | Age:65 Occupation: Farming | } |
| 3. | Ganu Bemtya Nirguda | } |
| | Age:63 Occupation: Farming | } |
| 4. | Muka Nathu Bhagat & Bali Muka Bhagat | } |
| | Since deceased through legal heirs | } |
| 4A. | Dhaya Muka Bhagat | } |
| | Age: 43 Occupation: Farming | } |
| 4B. | Gangaram Muka Bhagat | } |
| | Age : 39 Occupation : Farming | } |
| 4C. | Sami Balya Nirguda | } |
| | Age : 46 Occupation: Farming | } |
| 5. | Ganya Joma Madhe | } |
| | Age :50 Occupation : Farming | } |
| 6. | Joma Kalya Madhe | } |
| | Age: 71 Occupation : Farming | } |
| 7. | Kamlya Bemtya Nirguda | } |
| | Age: 65 Occupation : Farming | } |
| 8. | Mahadi Kalya Madhe | } |
| | Age:54 Occupation : Farming | } |
| 9. | Rama Lalya Nirguda | } |
| | Since deceased through legal heirs | } |
| 9A. | Kanha Rama Nirguda | } |
| | Age:64 Occupation : Farming | } |
| 9B. | Changu Rama Nirguda | } |
| | Age: 63 Occupation: Farming | } |
| 9C. | Manglya Rama Nirguda | } |
| | Age:62 Occupation : Farming | } |
| 9D. | Balya Rama Nirguda | } |
| | Age:60 Occupation : Farming | } |
| 9E. | Aaitwarya Rama Nirguda | } |
| | Age:56 Occupation: Farming | } |
| 9F. | Goma Rama Nirguda | } |
| | Age:48 Occupation : Farming | } |
| 10. | Jomi Damu Gira | } |

	Age:	Occupation:	}
11.	Joma Janya Madhe		}
	Age: 68	Occupation:	}
12.	Ambo Ganya Madhe		}
	Age:52	Occupation:	}
13.	Kanu Joma Madhe		}
	Age: 41	Occupation:	}
14.	Pandit Janya Madhe		}
	Since deceased through legal heirs		}
14A.	Changi Pandit Madhe		}
	Age:63	Occupation:	}
14B.	Santosh Pandit Madhe		}
	Age:42	Occupation:	}
14C.	Mahendra Pandit Madhe		}
	Age:30	Occupation:	}
14D.	Mini Manglya Nirguda		}
	Age:41	Occupation:	}
14E.	Chhaaya Bala Paradhi		}
	Age:24	Occupation:	}
14F.	Papi Kalu Paradhi		}
	Age:25	Occupation:	}
14G.	Jani Jayant Wagh		}
	Age:26	Occupation:	}
14H.	Shebi Baban Paradhi		}
	Age:23	Occupation:	}
15.	Hira Maya Gira and Ambi Hira Gira		}
	Since deceased through legal heirs		}
15A.	Padu Hira Gira		}
	Age:43	Occupation:	}
15B.	Padma Papy Madhe		}
	Age:36	Occupation:	}
15C.	Jayashri Narayan Paradhi		}
	Age: 64	Occupation:	}
16.	Dharma Joma Nirguda		}
	Age: 67	Occupation:	}
17.	Sukri Goma Madhe		}
	Age : 58	Occupation:	}
18.	Babya Nathu Bhagat		}
	Since deceased through legal heirs		}
18A.	Shankar Babya Bhagat		}
	Age:42	Occupation:	}
18B.	Sagar Babya Bhagat		}
	Age:34	Occupation:	}

- 18C. Sukri Babya Paradhi }
- Age:44 Occupation: }
- 18D. Darma Babya Bhagat, }
- Since deceased through legal heirs }
- 18D(a) Hasi Darma Bhagat }
- Age:48 Occupation }
- 18D(b) Raja Darma Bhagat }
- Age:32 Occupation: }
- 18D(c) Sunil Darma Bhagat }
- Age:29 Occupation: }
- 18D(d) Vimal Anil Nirguda }
- Age: 26 Occupation: }
- 18D(e) Pooja Mahesh Paradhi }
- Age:23 Occupation: }
- 19. Janu Joma Nirguda }
- Age:55 Occupation }
- 20. Hashi Budhya Madhe }
- Since Deceased through legal heirs }
- 20A. Kamlya Budhya Madhe }
- Age :52 Occupation }
- 20B. Mahadev Budhya Madhe }
- Age:31 Occupation }
- 20C Kalya Budhya Madhe }
- Age: 29 Occupation: }
- 20D Kalpana Papya Hambir }
- Age:34 Occupation: }
- 20E Shanti Ashok Sambri }
- Age:24 Occupation: }
- 20F Ranjana Kisan Sambri }
- Age:25 Occupation: }
- 20G Rami Bhuray Udgada }
- Age:25 Occupation: }
- 21. Changya Nagya Paradhi }
- Since Deceased through legal heirs }
- 21A.Baban Changya Paradhi }
- Age:63 Occupation: }
- 21B. Chaya Changya Paradhi }
- Age:59 Occupation: }
- 21C. Goma Changya Paradhi }
- Age:56 Occupation: }
- 21D Changi Joma Bhagat }
- Age:61 Occupation: }
- 21E. Mahadaya Changya Paradhi (Deceased) }

21F	Nagi Mahadaya Paradhi	}
	Age: 64 Occupation:	}
21G	Dharmi Changya Ugada	}
	Age:47 Occupation:	}
21H	Sukri Shaniwar Choudhari	}
	Age:45 Occupation:	}
21I	Sunita Balu Choudhari	}
	Age:31 Occupation:	}
21J.	Sangita Janardhan Bhagat	}
	Age: 36 Occupation:	}
21K	Rajeh Mahadaya Paradhi	}
	Age:42 Occupation:	}
21L	Gomaya Mahadaya Paradhi	}
	Age:40 Occupation:	}
22.	Aatya Jama Madhe	}
	Age:52 Occupation:	}
23.	Kamalya Gaya Madhe	}
	Age:57 Occupation:	}
24.	Padmakar Nama Madhe	}
	Age:63 Occupation:	}
25.	Ambo Bemtya Nirguda	}
	Since deceased through legal heirs	}
25A	Ambo Bemtya Nirguda	}
	Since deceased through legal heirs	}
25(A)	Tai Ambo Nirguda	}
	Age:71 Occupation:	}
25(B)	Chahu Ambo Nirguda	}
	Age:48 Occupation:	}
25(C)	Chandrakant Ambo Nirguda,	}
	Age : 42, Occupation :	}
25(D)	Kanibai Budhaji Ghute	}
	Age : 44, Occupation :	}
25(E)	Manglya Ambo Nirguda	}
	Since deceased through Legal Heirs	}
25(E)(a).	Meena Manglya Nirguda	}
	Age : 41, Occupation :	}
25(E)(b).	Pintu Manglya Nirguda	}
	Age : 24, Occupation :	}
26.	Bama Nathu Bhagat	}
	Since deceased through legal heirs	}
26A.	Rama Bama Bhagat	}
	Age : 59, Occupation :	}
26B.	Valkya Bama Bhagat	}

Age : 43, Occupation :	}	
26C. Bakri Ambo Choudhari	}	
Age : 47, Occupation :	}	
27. Sakharam Nama Madhe	}	
Age : 52, Occupation :	}	
28. Kamlakar Babya Bhagat	}	
Age : 48, Occupatiobn :	}	
29. Budhi Balu Madhe	}	
Age : 53, Occupation :	}	
30. Nama Shiva Madhe	}	
Since deceased through legal heirs	}	
30A. Balu Nama Madhe	}	
Age : 51, Occupation :	}	
30B. Aambo Nama Madhe	}	
Age : 53, Occupation :	}	
30C. Budi Kanha Nirguda	}	
Age : 62, Occupation :	}	
30D. Kamali Dharma Nirguda	}	
Age : 61, Occupation :	}	
30E. Suman Goma Paradhi	}	
Age : 62, Occupation :	}	
31. Dhaya Janya Madhe	}	
Since Deceased through legal heirs	}	
31A. Rajaram Sakharam Madhe	}	
Age : 23, Occupation :	}	
31B. Jomi Budya Nirguda	}	
Age : 26, Occupation :	}	
31C. Budhi Kamalya Nirguad	}	
Age : 41, Occupation :	}	
(Petitioners 1 to 31 -C residing at	}	
Survey No.49/0/120 at	}	
Village : Vadavali, Waghrachi Wadi (Temburde)	}	
Taluka : Panvel, District : Raigad,Maharashtra.	}	Petitioners

VERSUS

- | | |
|---|---|
| 1. The Principal Secretary, Urban Development | } |
| Department, Mantralaya, | } |
| Mumbai -32, through Government Pleader, | } |
| A.S. Bombay, High Court, Mumbai | } |
| 2. The Principal Secretary, Revenue and | } |
| Forest Department, Mantralaya, | } |
| Mumbai – 32 | } |

3. The Collector, Raigad Collector's Office, }
Alibaug, Respondent Nos.1 to 3 to be }
served at Office of the Government Pleader, }
A.S. Bombay High Court, Mumbai }
4. City and Industrial Development }
Corporation of Maharashtra, having }
its Head Office at CIDCO Bhavan, }
CBD-Belapur, Navi Mumbai – 400 614 }
Through its Managing Director } **Respondents**

**WITH
INTERIM APPLICATION (ST.) NO. 28084 OF 2024
IN
WRIT PETITION NO. 5381 OF 2024**

1. Arpan Constructions Pvt. Ltd. }
a Company incorporated under the }
Companies Act, I of 1956 and having }
its Registered Office at 401, New }
Rajaram Niwas, 4th Floor, 131/C. }
Dr. Dadasaheb Phalke Road, }
Dadar (East), Mumbai – 400 014. }
2. Vipul Ramesh Vira of Mumbai, }
Indian inhabitant, age 57 years, }
residing at Flat No.B-2106, }
Ashok Towers, Dr. Babasaheb Ambedkar }
Road, Parel, Mumbai – 400 012 } **Applicants**

IN THE MATTER BETWEEN :

1. Nama Kanha Chaudhari and Ors. } **Petitioners**
- VERSUS**
- The Principal Secretary, }
Urban Development Department and Ors. } **Respondents**

Mr. Vineet Naik, Senior Advocate with Mr. Vishwajeet P. Sawant,
Senior Advocate with Mr. Nikhil Patil i/by Prabhakar M. Jadhav
Advocates for the Petitioners

Mr. Janak Dwarkadas, Senior Advocate with Ms. Shraddha

Achliya, Mr. Dipesh Yadav i/by Narayanan & Narayanan Advocates for the Applicants.

Mr. N.C. Walimbe, Additional Government Pleader with Ms. A.A. Purav, Assistant Government Pleader for the Respondent Nos.1 to 3 – State

Mr. Sameer Patil, Advocate for the Respondent No.4 - CIDCO

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 30TH SEPTEMBER 2024

Oral Judgement : (PER : A. S. CHANDURKAR, J)

1. Rule. Rule made returnable forthwith and heard learned counsel for the parties. The petitioners who claim to be tribals belonging to the Katkari community have filed this writ petition raising a challenge to the communication dated 15th March 2024 issued by the Urban Development Department, State of Maharashtra thereby granting land to the extent of 6 Hectares 46 Ares at mouje Valvali, Taluka Panvel, District Raigad. The facts relevant for considering the challenge are that lands in Survey No.49/0 were part of a protected forest. The said land was catagarised as “Government paad land” on 28th January 2024 as a result of which it ceased to be a protected forest. By a Government Resolution dated 27th December 1978 issued under Section 40 of the Maharashtra Land Revenue Code, 1966 subsisting encroachments on Government lands came to be regularised. The

issue with regard to regularising occupation of various tribals who had encroached upon the lands was considered at various levels. On 23rd December 2020, the Tahasildar recommended the regularisation of such encroachment to the extent of 36 Hectares 53 Ares excluding the area of 10 Hectares 91 Ares that was allotted for stone quarries. The Collector, Raigad accepted report of the Tahasildar and recommended regularisation of the same on 15th February 2021. On 9th September 2022 another report was prepared by the Collector pursuant to the communication dated 11th April 2022 issued by the Revenue and Forest Department. In the said report, the individual land holdings of the petitioners to the extent of 36 Hectares 53 Ares was mentioned. Thereafter in February 2023 a proposal was submitted by the Revenue and Forest Department for necessary steps to be taken in this regard. On 18th May 2023, the proposal was accordingly sanctioned by the Revenue and Forest Department and directions were issued to the Collector to get the land de-notified from the respondent no.4, City and Industrial Development Corporation-CIDCO. There was exchange of communications between CIDCO and the Urban Development Department on the ground that the said land could not be de-notified. Pursuant to the inspection carried out and submission of another report on 1st March 2024, the Urban

Development Department issued the impugned communication dated 15th March 2024 by which land only to the extent of 6 Hectares 46 Ares came to be earmarked for being allotted to the petitioners. Being aggrieved by the reduction of the said land from 36 Hectares 53 Ares to 6 Hectares 46 Ares, the petitioners have approached this Court.

2. Interim Application No.28084 of 2024 has been filed by Urban Construction Private Limited which claims interest in developing a portion of the aforesaid land on the basis of rights conferred to it by sound of the petitioners. Considering the nature of directions proposed to be issued and without going into the legality of the claims of the intervenors vis-a-vis the petitioners, the applicants are permitted to intervene in the present proceedings.

3. We have heard Mr. Vineet Naik, learned Senior Advocate for the petitioners, Mr. N. C. Walimbe, Additional Government Pleader for the respondent nos.1 to 3, Mr. Sameer Patil, learned counsel for the respondent no.4 and Mr. Janak Dwarkadas, learned Senior Advocate for the intervenors. We have also perused the documents on record including the affidavit in reply filed by the respondent no.4.

4. A perusal of the impugned communication dated 15th March 2024 indicates that reference therein has been made to the communication dated 26th May 2023 that was issued by the Revenue and Forest Department to the Collector in the matter of regularisation of the occupation of the petitioners as regards land admeasuring 36 Hectares 53 Ares. Reference has also been made to the communication dated 1st March 2024 issued by the Collector, Raigad to the Principal Secretary, Urban Development Department also in the context of the entire land admeasuring 36 Hectares 53 Ares. There is also reference to an inspection report dated 7th October 2023. The impugned communication states that after the lands from Survey No.49/0 were de-notified, a portion of 40 Ares had been encroached for residential purposes and 6 Hectares 0.06 Ares had been encroached for agricultural purposes. The approval was granted to land admeasuring 6 Hectares 46 Ares for being de-notified by CIDCO and by giving benefit of the scheme under the 12.5% quota to the beneficiaries. The impugned communication does not indicate as to why the earlier reports and proposals pertaining to lands admeasuring 36 Hectares 53 Ares were not considered favourably and only a reduced area of 6 Hectares 46 Ares was being granted. In the light

of various preliminary reports and proposals addressed by the respondent nos.1 to 3, it was necessary for the Urban Development Department to indicate as to why only a smaller piece of land to the extent of 6 Hectares 46 Ares was being permitted for being regularised. In absence of any indication of the same, it is not possible to gather the reasons as to why the entire land that formed part of the proposal being 36 Hectares 53 Ares has not been considered. We are therefore of the view that the matter requires reconsideration by the Urban Development Department it would therefore be necessary to issue appropriate directions to enable reconsideration of the said matter.

5. Accordingly the following order is passed:

a) Clause 1 of the communication dated 15 March 2024 issued by the Urban Development Department is quashed. The proceedings are remitted to the Chief Secretary for considering the extent of land that can be kept aside pursuant to the earlier reports that have been submitted by the Revenue Department for consideration. While undertaking this exercise, the Chief Secretary is free to take steps to have fruitful co-ordination between the

Revenue Department as well as the Urban Development Department. Similarly, the representatives of the Petitioners and Intervenors are also entitled to be heard in the matter.

b) To facilitate consideration of this issue, a public notice may also be given to the occupants of Survey No.49 at Mauje Valavali, Taluka – Panvel, District – Raigad. The CIDCO through its authorized officer would also be entitled to participate in the deliberations. It is made clear that the individual rights of the Petitioners and the Intervenors are not being decided at this stage. All contentions in that regard are kept open. The necessary exercise be completed preferably within a period of three months of receiving copy of this order.

6. Rule is disposed of with aforesaid directions. The parties shall bear their own costs.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]