

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

WRIT PETITION NO. 9720 OF 2024

Tarabai Dnyaneshwar Lendghar And Ors.	...Petitioners
Versus	
Sugrbai Babumia Mujawar Deceased and Ors.	...Respondents

Dr. Uday Warunjikar i/by Mr. Rohan Barge, a/w Mr. Anilkumar Bagul for the Petitioners.

Mr. Y. D. Patil A.G.P. for the Respondent – State.

CORAM	:	AVINASH G. GHAROTE, J.
DATE	:	19th JULY 2024

P.C.:

1. The only question, which according to the learned counsel for the petitioners arises in the petition, is that inspite of the question of tenancy, in respect of Survey No.543 admeasuring 21 Acres 10 Gunthas and 16 Guntha Pot-Kharab of Village Chakan Dist. Pune being sub-judice in Writ Petition No. 7038 of 1999 in which by an order dated 10.02.2000, Rule was issued and ad-interim stay in terms of prayer clause (b) was granted (Page- 80), the prayer clause (b) being at (Page-78), in fresh proceedings initiated before the Tahsildar under Section 32(G), which were in respect of Gat No.478/1 to 478/6, which are corresponding to

Survey No.543, as indicated by Paragraph 2 (2) at (Page- 82) of the order dated 15.06.2023 of the ALT in SR/11/2021, though the aforesaid order dated 10.02.2000 in Writ Petition No. 7038 of 1999 was pointed out (Page- 84), the same was ignored and the proceedings were decided by the order dated 15.06.2023 (Page- 85).

2. Before the S.D.O. in appeal, the same position, regarding pendency of Writ Petition No. 7038 of 1999 and the order dated 10.02.2000 was pointed out, however, in view of ***Asian Resurfacing of Road Agency Pvt. Ltd V. C.B.I. (2018) 16 SCC 299***, it was held that the stay granted by this Court on 10.02.2000 would not continue beyond the period of six months and the proceedings were decided by the order dated 12.06.2024 (Page- 90).

3. The learned counsel for the petitioners submits and rightly so, that ***Asian Resurfacing of Road Agency Pvt. Ltd V. C.B.I.*** (supra) has been clarified and explained by larger Bench of the Hon'ble Apex Court in ***H.C.B.A. Allahabad Vs. State of U.P. 2024 SCC Online SC 207*** Paragraphs 45 & 47 by holding that there cannot be automatic vacation of stay granted by the High Court.

4. He also relies upon *Devsingh Ramchandra Chavan Vs. State of Maharashtra & Ors 2022 (5) Mh.LJ. 138*, in which it has been held that *Asian Resurfacing of Road Agency Pvt. Ltd V. C.B.I.* (supra) would operate only qua the civil and criminal cases pending in trial and not to any other category of orders passed in proceedings.

5. Learned A.G.P appearing for the Respondent No.15 opposes the impugned order. However, in view of what has been held by the Hon'ble Apex Court in *H.C.B.A. Allahabad Vs. State of U.P* (supra) the learned A.G.P, seeks time to take instructions, in respect to the Circular dated 18.01.2021, which has been issued by the State in pursuance to what has been stated in *Asian Resurfacing of Road Agency Pvt. Ltd V. C.B.I.* (supra).

6. List the matter on 23rd July, 2024, till which time the impugned order will not be acted upon.

(AVINASH G. GHAROTE, J.)