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

**INTERIM APPLICATION NO.12658 OF 2024
IN
WRIT PETITION NO.2584 OF 2022**

Ajay Ishwar Ghute & Ors. .. Applicants/Intervenors
Vs.
Meher K Patel & Ors. .. Respondents

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Mr. Rajesh Vishnu Adrekar, Advocate for the Applicants.
Mr. Karl Tamoly with Mr. Cyrus Jal, Mr. Kuber Wagle i/by Mr.
Purazar Fouzdar, Advocates for the original petitioner.
Mr. A. I. Patel, Additional Government Pleader with Mrs. Ashwini
A. Purav, Assistant Government Pleader for the respondent-State.

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**CORAM : A.S. CHANDURKAR &
M.M. SATHAYE, JJ**

DATE : 2ND JANUARY 2025.

P.C. :

1. Writ Petition No.2584 of 2022 has been filed seeking issuance of a writ of mandamus as against respondent nos.1 to 3, 10 and 11 to demarcate the boundary line of the subject property described in paragraph 4(a) of the writ petition within a specific time frame. In addition, it is prayed that the respondent nos.5, 6 and 12 be directed to provide police protection to the other respondents while carrying out survey of the subject property so as to demarcate the lands for drawing a boundary line to the subject property. When the writ petition was heard on 16/03/2022, Minutes of the order were tendered on behalf of the

respondent nos.1 to 6 and 10 to 12 dated 16/02/2022. On the basis of the said Minutes of the order, the writ petition was disposed of on 16/03/2022. The present applicant nos.1 to 29 initially sought review of the said order. The review application however was dismissed on 20/07/2023. The said applicants being aggrieved by the aforesaid orders challenged the same before the Supreme Court of India. Civil Appeal No.4786 of 2024 filed by them came to be allowed on 30/04/2024. The order dated 16/03/2022 passed in the writ petition as well as the order dated 20/07/2023 passed in the review petition came to be set aside. Writ Petition No.2584 of 2022 was restored for fresh consideration. It was observed that it was open for the appellants - applicant nos.1 to 29 to seek their impleadment in the writ petition on all available grounds. This Court was directed to consider whether all necessary parties likely to be affected by the construction of the compound walls were impleaded as parties in the writ petition. It was noted that the construction of the compound wall had been completed and hence the same was made subject to the final outcome of the writ petition. It was observed that if the construction was found to be illegal or that it adversely affected the rights of the third parties, an order of demolition of the compound wall or a part thereof could be

passed.

2. Pursuant to the aforesaid order of the Supreme Court about 134 applicants have filed the present interim application seeking leave to intervene in the writ petition. In the Interim Application, it is stated that applicant nos.1 to 9 have filed civil suits in the civil Court at Dahanu seeking relief of declaration of their title and ownership of the respective lands which civil suits are pending. Applicant nos.10 to 18 state that they had been shown as intervenors in the writ petition when it was disposed of on 16/02/2022. They had however not signed the intervention application nor had they instructed any Advocate to represent them in the earlier round of litigation. Applicant nos.19 to 29 are the appellants in the Civil Appeal filed before the Supreme Court. Applicant Nos.30 to 106 claim that as a result of construction of the compound wall their lands have been landlocked as a result of which their access to the said lands has been affected. The said applicants seek to rely upon the relevant revenue records to indicate the aforesaid. Applicant nos.107 to 134 claim to be affected by the construction of the compound wall and they also seek to rely upon the revenue records of their respective lands. By contending that the rights of the applicants have been prejudicially affected in view of construction of the compound wall

and as the legal rights of the applicants have been violated without following the provisions of Chapter IX of the Maharashtra Land Revenue Code, 1966, it is prayed that the applicants be permitted to intervene in the writ petition. Various revenue records have been placed on record to support the prayer for intervention.

3. The prayer as made in the interim application is strongly opposed by the learned counsel for the petitioners. By referring to the affidavit in reply it is stated that the lands in question were purchased long back in the year 1938 and that the petitioners were merely seeking to construct a compound wall so as to safeguard their interest in the said lands. The prayers made in the writ petition only sought demarcation of the boundary line and a provision for police protection while undertaking the activity of the demarcation of the compound wall. After conducting a survey, the compound wall had been duly constructed and that if at all the compound wall was found to have been illegally constructed, it could be directed to be demolished in case the prayers made in the writ petition were not granted. Since the applicants had approached the civil Court and the civil suits filed by them were pending there was no reason to entertain the Interim Application. The rights of the applicants could be adjudicated in the said

proceedings or in other appropriate proceedings initiated by them. There was no case made out to allow the Interim Application so as to permit the applicants to intervene in the writ petition. The interest of various applicants was questioned by urging that they would not be affected by the demarcation and construction of the boundary wall. It was thus submitted that the Interim Application was liable to be rejected.

4. We have heard the learned counsel for the parties and we have perused the documents on record. On a reading of the order dated 13/04/2024 passed in Civil Appeal No.4786 of 2024, the same indicates that in the affidavit filed by the revenue authorities it was stated that construction of the compound wall was likely to affect third parties who were not before the Court when Writ Petition No.2584 of 2022 had been initially filed. This aspect had been ignored while disposing of the writ petition on the basis of the Minutes of the order. The proceedings were therefore remanded to this Court. Since the construction of the compound wall had been completed, it was made subject to outcome of the writ petition. Further, it was stated that if the construction was found to adversely affected the rights of third parties, the High Court could pass an order of demolition of the compound wall or a part thereof.

5. It is thus evident that some of the applicants who were aggrieved and prejudiced by the order dated 16/03/2022 passed in the writ petition had approached the Supreme Court. Prima facie, we are of the view that the applicants are parties who would be affected by the construction of the compound wall in some manner or the other. The voluminous revenue records filed on record indicate that the names of various applicants had been shown in the same and that their interest in the subject lands was evident. In this regard, it would also be necessary to refer to the affidavit in reply filed by the District Superintendent of Land Records, Palghar dated 14/03/2022. In paragraph 9 of the said affidavit, it has been stated as under:-

“9. I say that after the measurement, as aforesaid, was carried out and the original records maintained by my office were verified in that context it appears that, there are various lands situate within survey number 173 in respect of which, as a result of proceedings initiated in the Bombay Tenants and Agricultural Lands Act, various persons have become owners of the lands of various pockets that have been marked in red colour, in the map, which has been produced on 14.03.2022 before this Hon'ble Court. There are also certain persons to whom the

petitioner and others have sold small portions of the lands and thus these persons have become owners and are in possession thereof. If a compound wall is constructed as desired by the petitioner, the aforesaid pieces of land owned by third parties and lawfully possessed by them are likely to get land locked. Therefore, in my submission, while constructing the aforesaid compound wall, appropriate arrangement will have to be made to provide due access to these lawful owners and occupiers of various parcels of lands that is likely to be get land-locked on account of the construction of the proposed compound wall."

Similarly, in the affidavit in reply filed by the Superintendent of Police, Palghar district dated 14/03/2022 it has been stated as under:-

"9. If while constructing the aforesaid wall if appropriate and adequate provision for access is made, enabling those agriculturists who own and possess various parcels of lands that are likely to get land locked because of the erection of the compound wall, to reach their respective agricultural lands owned and possessed by them, one of the

important for obstructions to the compound wall, at hand of the tribals, will get resolved.”

6. It is thus clear from the aforesaid affidavits that the District Superintendent of Land Records as well as the Superintendent of Police have expressed an apprehension that with the construction of the compound wall, the lands of some of the applicants were likely to be landlocked. There is no counter affidavit filed to deny this aspect of the matter. Moreover, the inter se rights between the applicants and the petitioners would be a matter to be considered by the authority competent to adjudicate the same under the Maharashtra Land Revenue Code 1966 in the matter of demarcation of boundaries of their lands. In case the applicants are not permitted to intervene in the writ petition, their legal rights would be seriously prejudiced. Besides some of the lands being landlocked, the issue of title is also pending in the civil Court. In these facts therefore we are of the view that the applicants ought to be permitted to intervene in the writ petition.

7. Accordingly, the intervention application is allowed. The applicants shall be impleaded as intervenors so as to enable them to contest in the prayers made in the writ petition on merits. It is clarified that grant of permission to intervene in the writ petition does not amount to adjudication of any legal rights of the

petitioners or the applicants. The contentions of all parties on merits are kept expressly open. The cause title of the writ petition be accordingly amended within a period of ten days from today by showing the status of the applicants as interveners.

8. The Interim Application is allowed and disposed of in aforesaid terms.

[M.M. SATHAYE, J.]

[A.S. CHANDURKAR, J.]