

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

WRIT PETITION NO. 127 OF 2025

Sudhir Purushottam Agharkar ... Petitioner
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. C. G. Gavnekar a/w Mr. Rohit Parab for the Petitioner.
Ms. M. S. Bane, AGP for Respondent No.1-State.
Mr. Akshay P. Shinde for Respondent No.2.
Ms. Priyanka Bhadrashete for Respondent No.3.

**CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.**

DATE : 9th FEBRUARY 2026

P.C. :

. Heard learned counsel for the petitioner, learned AGP for respondent-State Authority and the learned counsel appearing for respondent No.2-Mumbai Metropolitan Region Development Authority (MMRDA).

2. In this petition, on 25th July 2025, this Court had issued notice, indicating that the petition would be disposed of at admission stage itself.

3. The learned counsel for the petitioner, at the outset, informs this Court that writ petition filed by identically situated persons was allowed by an order dated 23rd January 2023 passed in Writ Petition No. 11728 of 2017 (*Suhas Dattatray Modgi & Ors. vs.*

State of Maharashtra & Ors.). He relies upon copy of the order passed by this Court, allowing the writ petition at exhibit 'F'.

4. The learned counsel appearing for the respondents are unable to distinguish the case of the petitioner from the case of the petitioners in Writ Petition No. 11728 of 2017. Hence, we are inclined to allow the present petition also in terms of the reliefs granted to the petitioners in aforementioned Writ Petition No. 11728 of 2017.

5. The petitioner before this Court has sought a direction to the respondent No.1-State to withdraw and/or cancel impugned Notification dated 3rd September 1979 issued by the then Bombay Metropolitan Region Development Authority under Section 32 of the Bombay Metropolitan Region Development Authority Act, 1974 (BMRDA Act). A perusal of the notification shows that lands from various survey numbers were subject matter of the said notification, including the land belonging to the petitioner located in survey No.310/6 in village Pen, Dist. Raigad. Subsequently, the respondent No.2-MMRDA communicated to the respondent-State that it did not require the lands that were subject matter of the said notification.

6. The logical corollary of the said request made on behalf of the respondent-MMRDA was that the respondent-State ought to have withdrawn the impugned notification or cancelled the same. But, no steps were taken in that regard, prompting some of the identically situated persons to file Writ Petition No. 11728 of

2017 before this Court. While allowing the said writ petition, in the order dated 23rd January 2023 passed in Writ Petition No. 11728 of 2017, this Court made the following observations :

“7. MMRDA has already made its stand clear before this Court on 11th January 2023 based on the requisition made by Respondent No.3 that it was not in a position to pay the compensation amount of Rs.108.25 crores and had requested to cancel the said proposal. In view of the statement already made by MMRDA, we are not inclined to grant any adjournment on the request made by learned AGP. Under Section 32 of the Mumbai Metropolitan Region Development Authority Act, 1974, the State Government acquired the writ property on the request made by the MMRDA. MMRDA had taken such steps on the request made by Respondent No. 3. Respondent No. 3 does not require the land and had accordingly communicated to MMRDA to inform the State Government, requesting not to proceed with the acquisition and/or cancel the said requisition. State Government now cannot refuse to release the writ property from acquisition though Respondent No. 3 and MMRDA do not propose to continue the acquisition. Accordingly, we pass the following order.

ORDER

- a) Writ Petition is allowed in terms of prayer clause (a).*
- b) The amount deposited by MMRDA in this Court is directed to be released within four weeks from the date of communication of this order.*
- c) Registry of this Court is to act on authenticated copy of this order.*
- d) It is made clear that in view of the relief granted in terms of prayer clause (a) of the Petition, all subsequent steps taken by Respondent No. 1 are also quashed and set aside.*
- e) Rule is made absolute. No order as to costs. Parties to act on an authenticated copy of this order.”*

7. Since, there is no dispute about the fact that land belonging

to the petitioner was subject matter of the said notification, there is no reason why this Court should not allow the present writ petition in identical terms.

8. In view of the above, the writ petition is allowed in terms of prayer clause (a), which reads as follows :

“(a) That by Writ of Mandamus and/or by appropriate Writ, Direction and Order, Your Lordship be pleased to direct Respondent No.1 to withdraw and/or cancel the Impugned Notification dated 03/09/1979 (annexed at Exh. B) so far as it relates to Gut No.310/6, situated at Pen, Taluka Pen, District Raigad.”

9. Consequential steps shall be taken by the respondent No.1, at the earliest and in any case, within four weeks from today, including direction sought in terms of prayer clause (b).

10. Pending applications, if any, stand disposed of.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)