

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO.4676 OF 2024**

Ramji Wagha Dabhi @ Kathewadi & Ors.

... Petitioners

V/s.

State of Maharashtra & Ors.

... Respondents

Mr. Ajay Khaire for the Petitioners.

Smt. Nazia Sheikh, AGP, for the Respondent Nos.1 to 3-State.

Ms. Anjali Ghuge for the Respondent Nos.4 to 6-BMC.

Mr. Abhijit P. Kulkarni a/w. Adv. Sweta Shah for Respondent No.8-SRA.

Mr. Arun Ivaturi i/by Adv. Mahesh Mishra for Respondent Nos.10 and 11.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.****DATE : 6th April 2026****PC:-**

1) By this Petition under Article 226 of the Constitution of India, the Petitioners seek issuance of writ in the nature of Mandamus or any other appropriate relief, order or direction directing the Officers of Respondent Nos.1 and 2 to conduct a thorough inquiry about the encroachment upon the suit land i.e. land bearing Survey No.2, Hissa No.1, CTS No.D-519, Village Danda, Suburban District of Bombay admeasuring 5149 1/9 sq. yards equivalent to 4305.3 sq. mtrs and to submit a Report to

this Court. The Petitioners also seek consequential orders and directions against Respondent Nos.10 and 11 in respect of the alleged encroachment on the suit land and for consequential reliefs.

2) We have heard Mr. Khaire for the Petitioner, Ms. Sheikh, learned AGP for Respondent Nos.1 to 3, Ms. Ghuge for Respondent Nos.4 to 6, Mr. Kulkarni for Respondent No.8 and Mr. Ivaturi for Respondent Nos.10 and 11. We have also perused the entire record.

3) It is an admitted position on record that, the structures erected on the suit land, along with those on the adjoining lands, collectively form as part of a Slum Rehabilitation Scheme. By a Notification dated 30th June, 1979, issued by the competent Authority constituted under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 ('Slum Rehabilitation Act') the said area came to be declared as a Slum. The total area of the said Slum Rehabilitation Scheme is approximately 7356.9 sq. mtrs.

4) The Petitioners claim to be successors-in-title to the suit land through a Trust, namely Danda Sonkoli Community Trust, on the basis of an unregistered Agreement dated 24th November, 1955. A bare perusal of the said Agreement indicates that it was executed between Mrs. Nagaibai W/o. Pandurang Awtya, who allegedly claimed to be Trustee of Koli Panch, and Mr. Lakha Kala Kathewadi. As noted earlier, the said Agreement is admittedly an unregistered Agreement. Moreover, no approval of the

Charity Commissioner appears to have been obtained for dealing with the Trust's property. We, therefore, have serious doubts about the genuineness of the said Agreement.

5) Prima facie, it appears to us that after the Competent Authority issued the Notification dated 30th June, 1979 under the Slum Rehabilitation Act, the said Agreement has been relied upon only with a view to create some semblance of rights in relation to the Rehabilitation Scheme, where none otherwise exists.

6) In this background, instead of approaching the competent Civil Court for crystallisation of their alleged rights and for seeking appropriate reliefs, the Petitioners have invoked the writ jurisdiction of this Court by filing the present Petition, which is *ex facie* not maintainable.

7) The Notification and the other material on record indicate that the entire suit land is encroached by various slum dwellers, which in fact was the basis for the issuance of the said Notification under Section 3 of the Slum Rehabilitation Act. The relief sought by the Petitioners, namely a direction to remove the alleged encroachment upon the suit land by Respondent Nos.10 and 11, appears to be an indirect attempt to create rights in respect of the said suit property, though such rights are otherwise not legally tenable. This Petition is, therefore, nothing but a mischievous attempt to secure this Court's imprimatur for an otherwise unclear and unsubstantiated claim of title over the said property.

8) In view of the above, we are not inclined to entertain this Petition. We therefore gave the Petitioners an option to withdraw the Petition unconditionally. Learned Advocate for the Petitioners, on instructions, refused to accept the said request of this Court.

9) In view of the above, and upon perusing the record, we are clearly of the opinion that the present Petition is a sheer abuse of process of law and a speculative, chance-taking Petition. The Petition is accordingly dismissed with costs of Rs.5,00,000/-. The said cost shall be paid to the Bar Council of Maharashtra and Goa's Advocate Academy and Research Center, within a period of two weeks from the date of uploading of the present Order on the official website of the High Court of Bombay.

9.1) Details of the bank Account for payment of cost are as under:-

Account Name	:-	BCMG'S Advocate Academy & Research Center
Account Number	:-	000120110001327
Bank Name	:-	Bank of India
Branch Name	:-	Mumbai Main
IFSC Code	:-	BKID00000001
Type of Account	:-	Current A/c

10) List the Petition on board on 24th April, 2026 under the caption 'For Reporting Compliance' of present Order.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)