

ITEM NO.61

COURT NO.3

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition(s)(Civil) No(s). 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS.

Respondent(s)

([ 1 ] IN RE : "CONSTRUCTION OF MULTI STOREYED BUILDINGS IN FOREST LAND MAHARASHTRA" [ i ] I. A. No. 2079 OF 2007 [Application For Impleadment And Directions] WITH [ ii ] I.A Nos. 2301-2302 OF 2008 [Applications For Impleadment And Directions] AND [ iii ] I.A. Nos. 3044-3045 OF 2011 [Applications For Impleadment And Directions] AND [ iv ] I.A. Nos. 2771-2772 OF 2009 [Applications For Impleadment And Directions] WITH I.A. NOS. 172553 AND 172555 OF 2024 (Application for Additional and Documents and Exemption from filing O.T. in I.A. Nos. 2771-2772 of 2009) AND [ v ] I.A.Nos. 111725 AND 154041 OF 2018 [Applications For Substitution Of Applicant, I.E. Smt. Housabai Haribhau Bhairat And Condonation Of Delay In Filing Application For Substitution In I.A. Nos. 2771-2772/2009] WITH [ vi ] I.A. NO. 254946 OF 2023 (Application For Directions In I.A. No. 2301-2302/2007 Filed By M/S. Mitter & Mitter Co., Advocate) WITH I.A. NO. 39711 of 2024 (Application For Permission To File Additonal Documents In I.A. No. 254946/2023 Filed By M/S. Mitter & Mitter Co., Advocate)

WITH

W.P.(C) No. 301/2008 (PIL-W)

(IA No. 2/2008 - EXEMPTION FROM FILING O.T. AND IA No. 9108/2024 - INTERVENTION APPLICATION)

Date : 14-08-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI

HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s)

Mr. K. Parameshwar, leaned A.C.  
Mr. M.V. Mukunda, Adv.  
Ms. Kanti, Adv.  
Ms. Aarti Gupta, Adv.  
Mr. Chinmay Kalgaonkar, Adv.

Mr. Dhruv Mehta, Sr. Adv.

Mr. Yashraj Singh Deora, Adv.  
 Mr. Priyesh Mohan Srivastava, Adv.  
 Ms. Sonal K. Chopra, Adv.  
 M/S. Mitter & Mitter Co., AOR

Mr. Katubadi Ismail, Adv.  
 M/S. Lawyer S Knit & Co, AOR

**For Respondent(s)**

Mr. Nishant R. Katneshwarkar, Adv.  
 Mr. Siddharth Dharmadhikari, Adv.  
 Mr. Aaditya Aniruddha Pande, AOR  
 Mr. Bharat Bagla, Adv.

Ms. Aishwarya Bhati, A.S.G.  
 Ms. Ruchi Kohli, Adv.  
 Ms. Archana Pathak Dave, Adv.  
 Ms. Suhasini Sen, Adv.  
 Mr. S.s. Rebello, Adv.  
 Mr. Shyam Gopal, Adv.  
 Mr. Raghav Sharma, Adv.  
 Mr. Sughosh Subramaniam, Adv.  
 Mr. G.S. Makker, Adv.  
 Mr. Mukesh Kumar Maroria, AOR

Mr. K. M. Nataraj, A.S.G.  
 Mr. Mrinal Elkar Mazumdar, Adv.  
 Mr. Mukesh Kumar Verma, Adv.  
 Mr. Neeraj Kumar Sharma, Adv.  
 Ms. Indira Bhakar, Adv.  
 Mr. Harish Pandey, Adv.  
 Mr. Shashwat Parihar, Adv.  
 Mr. Vinayak Sharma, Adv.  
 Mr. Anuj Srinivas Udupa, Adv.  
 Mr. Piyush Beriwal, Adv.  
 Mr. Shreekant Neelappa Terdal, AOR

Mr. B. K. Pal, AOR  
 Mr. Nathansh Kumar Pal, Adv.  
 Mrs. Suresh Kumari, Adv.

Ms. Ranjeeta Rohatgi, Adv.

Mr. C.S. Ashri, Adv.

UPON hearing the counsel the Court made the following  
 O R D E R

I. A. No. 2079 of 2007 with I.A Nos. 2301-2302 of 2007 and I.A. Nos. 3044-3045 of 2011 and I.A. Nos. 2771-2772 of 2009 with I.A. Nos. 172553 and 172555 OF 2024 in I.A. Nos. 2771-2772 of 2009 and

I.A.Nos. 111725 and 154041 of 2018 in I.A. Nos. 2771-2772/2009 with I.A. No. 254946 of 2023 with I.A. No. 39711 of 2024

and I.A. No. 9108 OF 2024 in Writ Petition(C) No. 301 of 2008

1. Vide our order dated 23.07.2024, we had recorded the glaring facts in the present matter. The predecessors-in-title of the applicant(s)/petitioner(s) succeeded up to this Court in litigation for getting possession of their land which was illegally occupied by the State Government of Maharashtra and was subsequently allotted to the Armament Research Development Establishment Institute (for short "ARDEI"), which is a unit of the Defence Ministry of the Union of India.

2. Faced with this situation where the land belonging to the applicant(s), was allotted to ARDEI without being acquired in accordance with law, the State Government had allotted another piece of land to the applicant(s). However, subsequently it was noticed that the land which was allotted to the applicant(s) was a reserved forest and as such, was of no utility to the applicant(s).

3. We had also noted that though a period of almost 15 years has lapsed, the State Government has not come up with a concrete proposal to address the issue and grant adequate relief to the applicant(s).

4. Vide the said order, we had also permitted the applicant(s) to place on record the ready reckoner rates of the land in Pashan as well as the land at Kondrwa Khurd.

5. We had issued following directions to the State Government:

"8. We, therefore, direct the State Government to come with a clear stand:

i. As to whether another piece of equivalent land will be offered to the petitioner(s)/applicant(s); or

ii. As to whether adequate compensation would be paid to the petitioner(s)/applicant(s); or

iii. As to whether the State Government proposes to move the Central Government for denotification of the said land as forest land.

9. The State Government shall file an affidavit specifying its stand within a period of two weeks from today.

10. The matter is directed to be posted on 07.08.2024 at S. No.1. We clarify that if we find that the State Government does not come with a clear stand we would be compelled to direct the personal"

6. When the matter was listed on 07.08.2024, Mr. Aditya A. Pandey, learned counsel appearing for the State of Maharashtra stated that an affidavit could not be filed since the aforesaid order had been uploaded on 31.07.2024. Though we found the excuse to be without substance, in order to give one more opportunity, we directed the matter to be listed on 13.08.2024. We had further directed that in the event the said affidavit is not filed prior to 13.08.2024, the Chief Secretary of the State shall personally remain present in this Court on 13.08.2024. Subsequently an affidavit was filed by the State on 09.08.2024 and the matter was listed on 13.08.2024.

7. Yesterday, when the matter was called out, we have

perused the affidavit. The affidavit stated that the compensation to be paid to the applicant(s) was worked out on the basis of ready reckoner which was introduced in the year 1989.

8. It was stated in the affidavit that the State has considered the case of the applicant(s) sympathetically and that though the applicant(s) were entitled to compensation of Rs.16,96,440/- on the basis of ready reckoner rates of 1989, the State was graciously offering an amount of Rs.37,42,50,000/- which would be included with the price to be determined as per the ready reckoner and the interest accrued thereon.

9. It is the contention of the State that as per the ready reckoner, the valuation for Pashan area is Rs.31,700/- per square metre.

10. It is further contended that if the compensation is worked out at that rate, it will come to the tune of around Rs. 317 crores.

11. Since we are not satisfied with the stand taken by the State Government in the affidavit, we had requested Mr. Nishant R. Katneshwarkar to speak to the Chief Secretary of the State and come up with a proposal which would, at least, be reasonable. However, we find that the difference between Rs.37,42,50,000/- and Rs. 317 crores is huge.

12. We find that, firstly, the land belonging to the applicant(s) has been illegally taken in possession by the respondent-State right from 1963. Though the State had no right, it had allotted the same to the ARDEI. It is further to be noted that the applicant(s) have succeeded in litigation right up to this Court and the State has lost the same.

13. In spite of the finality being arrived at in the year 1985, for the last 39 years the applicant(s) was required to run from pillar to post for getting their legitimate dues.

14. The conduct of the State is also not that of a model State. While allotting the alternate land to the applicant(s), a land which is a reserved forest has been allotted, which is of no use to the applicant(s).

15. In this situation, it is clear that the applicant(s) have been deprived of their land for a period of last 60 years. The land has been taken possession of by the State Government and allotted to an agency of the Central Government, without any authority of law.

16. As such, this Court would be justified in directing the State Government to acquire the land now and pay the compensation as per the Right to Fair Compensation and Transparency in land Acquisition, Rehabilitation and Resettlement Act, 2013.

17. However, Mr. Katneshwarkar submits that the matter is

being looked at the highest level and he submits that even for the compensation as per the ready reckoner there is a certain procedure which is required to be followed as per relevant Rules. He submits that the compensation will differ depending upon the actual area to be acquired. He submits that for calculating the same a Committee consisting of the concerned District Collector, Town Planning Officer and the Joint Director of Stamps is required to determine the amount of compensation. He further submits that thereafter the approval of the State Government is required. He submits that this will take at least three weeks' time.

18. We are not impressed with this submission on behalf of the State Government. If the State Government wants to act with urgency in a certain matter, a decision can be taken within 24 hours. However, we are inclined to give some more time to the State government to work out a reasonable compensation.

19. We, therefore, direct the application(s) to be kept on 28.08.2024 at serial No.1 so as to enable the State Government to come out with a proposal for grant of reasonable compensation.

20. Needless to state that if the State Government does not come up with such a proposal by that date, this Court will be compelled to pass such order, as deemed fit and proper in the

circumstances.

21 If the State so desires, it may file an affidavit.

(DEEPAK SINGH)  
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)  
COURT MASTER (NSH)