

ITEM NO.1

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
RECORD OF PROCEEDINGS

Writ Petition (Civil) No. 202/1995

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA AND ORS. & ORS.

Respondent(s)

(INTERLOCUTORY APPLICATION FOR 28.08.2024 "ONLY" [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) WITH I.A. NO. 177996 OF 2024
(Application for 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 Aditonal Documents In I.A. No.
254946/2023 Filed By M/S. Mitter & Mitter Co., Advocate)

AND WRIT PETITION(C)NO. 301 OF 2008

WITH I.A. NO. 9108 OF 2024 (Application for Intervention) "ONLY"
ARE LISTED IN W.P.(C) No. 202/1995 "ONLY" ON 28.08.2024 AND THE
NAMES OF "ONLY" THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN
SHOWN AGAINST THESE I.As.MR. HARISH N. SALVE, SR. ADV. [A.C.];
MR. A.D.N. RAO, SR. ADVOCATE [A.C.]; MS. APARAJITA SINGH, SR.
ADVOCATE [A.C.]; MR. SIDDHARTHA CHOWDHURY, ADVOCATE [A.C.];
MR. K. PARAMESHWAR, ADVOCATE [A.C.]; MR. G.S. MAKKER, MR. S.N.
TERDAL FOR S. NO. [1]; MR. B.K. PAL, AOR; MR. NISHANT R.
KATNESHWARKAR, AOR; M/S. MITTER & MITTER CO., AOR; MS. RANJEETA
ROHTAGI, MR. C.S. ASHRI, Adv. and MR. AADITYA ANIRUDDHA PANDE, Adv.

WITH

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

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

Date : 28-08-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA
HON'BLE MR. JUSTICE K.V. VISWANATHAN

Counsel for Parties

Mr. Harish N. Salve, Sr. Adv. [A.C.](N/P)

Mr. A.D.N. Rao, Sr. Adv. [A.C.] (N/P)

Ms. Aparajita Singh, Sr. Adv. [A.C.](N/P)

Mr. Siddhartha Chowdhury, Adv. [A.C.]

Mr. K. Parameshwar, Sr. Adv. [A.C.]

Ms. Aishwarya Bhati, A.S.G.

Mr. Gurmeet Singh Makker, AOR (A.C.)

Ms. Archana Pathak Dave, Adv.

Ms. Suhashini Sen, Adv.

Mr. S. S. Rebello, Adv.

Mr. Shyam Gopal, Adv.

Mr. Raghav Sharma, Adv.

Mr. Sughosh Subramanyam, Adv.

Ms. Ruchi Kohli, Adv.

Ms. Aishwarya Bhati, A.S.G.

Mr. K M Nataraj, A.S.G.

Mrs. Ruchi Kohli, Sr. Adv.

Mr. G S Makkar, Adv.

Mr. S N Terdal, 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 Subramaniyam, Adv.

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. Krishna Kant Dubey, Adv.
Mr. Mukesh Kumar Maroria, AOR

Mr. Shekhar Naphade, Sr. Adv.
Mr. Chinmoy Khaladkar, Adv.
Mr. B. K. Pal, AOR
Mr. Nathansh Pal, Adv.

Mr. Nishant R. Katneshwarkar, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
Ms. Preet S. Phanse, Adv.
Mr. Adarsh Dubey, Adv.

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Dhruv Mehta, Sr. Adv.
Mr. Yashraj Singh Deora, Sr. Adv.
Mr. Priyesh Mohan Srivastava, Adv.
Ms. Sonal K Chopra, Adv.
Mr. Keith Varghese, Adv.
Ms. Anupma Dhurve, Adv.
Mr. Yash Johri, Adv.
M/S. Mitter & Mitter Co., AOR

Mr. Nishant R. Katneshwarkar, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
Ms. Preet S. Phanse, Adv.
Mr. Adarsh Dubey, 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 2008; I.A. Nos. 3044-3045 of 2011; I.A. Nos. 2771-2772 of 2009 With I.A. Nos. 172553 and 172555 of 2024 in I.A. Nos. 2771-2772 of 2009 with I.A. No. 177996 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 in I.A. Nos. 2301-2302/2007 in W.P.(C) 202 of 1995 and W.P.(C) No.301 of 2008.

1. In our order dated 14.08.2024, we had observed thus:-

“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."

2. Today, in response to the order passed by this Court an affidavit has been filed.

3. A perusal of the said affidavit would reveal thus:-

"4. Pursuant to the abovementioned orders, the matter was again discussed at the highest level by conducting a meeting under the Chairmanship of the Chief Secretary, which was attended by the Deponent, the Collector, Pune, the officers of the Forest Department and other officers. The Applicant as well as this Hon'ble Court may not approve the fresh calculation made by the Collector, Pune, but it is the bounden duty of the State to follow the provisions of law and to arrive at a proper calculation. As per the fresh calculation, the amount of compensation

comes to Rs.48,65,25,000/-. Details of the said calculation are as under:

Sr. No.	Particulars	Details
1.	Village name	Pashan
2.	Land Survey No.	45/1/1,45/1/2,45/2
3.	Land Area	24 acre 38 R. (99800.00 Sq. Mrt.)
4.	Land Rate (as per 1989 Ready Recknor table)	Rs. 600/- per Sq. Mtr.
5.	Land value as per 1989 Ready Recknor table rate(600 x 99800)	Rs. 5,98,80,000/-
6.	30% solatium	Rs. 1,79,69,000/-
7.	Total compensation (5+6)	Rs. 7,78,44,000/-
8.	Interest on compensation for 35 years.(35x15%)	40,86,81,000/-
9.	Total Amount payable (7+8)	48,65,25,000/-

5. I say and submit that, By virtue of the direction No.1 of the order dated 23.07.2024, the Collector, Pune conducted a detailed survey of the lands available with the State Government so that the Applicant can be allotted land admeasuring 24 acres 38 gunthas. After conducting a thorough search, it was revealed that the State has land admeasuring 14 Hec. 2 gunthas in survey No.7 situated at Moje Yewalewadi, Tq. Haveli, Dist.Pune. Out of the said land, land admeasuring 24 acres 38 gunthas can be allotted to the Applicant. The said land is within the municipal limits of the Pune Municipal Corporation. The said land is near to the land at Kondhwa which was allotted to the Applicant. The said land is touching the proposed Development Plan road. The State will also have the solace of protecting the Constitutional Rights of

the Applicant enshrined under Article 300-A of the Constitution of India. It is pertinent to note that the Deputy Conservator of Forest, Pune has informed that the land does not come in any kind of forests. Therefore, there is no hurdle for allotment of the said land to the Applicant."

4. It is thus clear that the exercise which was to be undertaken by the State as assured by the Counsel for the State has not been undertaken. The State has again reiterated its earlier stand of paying the compensation as per the ready reckoner of 1989 and the interest accrued thereon.

5. When the State had sought time for a particular purpose, it was expected that the State should have done that exercise and come with an amount, arrived at, on the basis of the exercise which, according to the learned counsel is required to be made as per the relevant rules.

6. The said affidavit of the State further states that the applicant(s) as well as this Court have not approved the said calculation, however, it is the bounden duty of the State to follow the provisions of law and to arrive at a proper calculation. We do not understand as to what the State mean in stating that it is following the provisions of the law and arrive at an appropriate

calculation. The calculation, to say the least, is based on whimsical ideas. The inference that can be drawn from the said sentence is that this Court or the applicant(s) do not follow the provisions of law. We, *prima facie*, find the said averments to be contemptuous in nature.

7. We issue notice to Mr. Rajesh Kumar, Additional Chief Secretary, Revenue and Forest Department, Mantralaya, Mumbai, to personally remain present in this Court on 9th September, 2024 and show cause as to why an action for committing contempt of this Court should not be initiated against him.

8. We find that the State is only indulging in dilatory tactics. When the time was sought for a particular purpose, that exercise ought to have been done.

9. We further find that the State is not serious in this matter.

10. Be that as it may, in the affidavit dated 27.08.2024 the State Government has stated that a land admeasuring 14 hectares 2 gunthas at Survey No.7 situated at Moje Yewalewadi, Tq. Haveli, Dist. Pune, is available with the State Government. It is stated that out of the said land a piece of land

admeasuring 24 acres 38 gunthas can be allotted to the applicant(s), which is within the Municipal limits of the Pune Municipal Corporation and near to the land at Kondhwa which was earlier with the applicant(s).

11. Mr. Katneshwar, learned counsel for the State submits that the Collector and the concerned Deputy Collector of the Pune District would show the said piece of land to the applicant(s).

12. Mr. Dhruv Mehta, learned senior counsel for the applicant(s) submits that the applicant(s) are willing to visit the said site and take a decision as to whether they would take the said piece of land or they would insist on payment of monetary compensation.

13. The parties have agreed that they would visit the site on 30th August, 2024. The applicant(s) will report at the Office of the District Collector, Pune, on the said date at 11:00 a.m.

14. List on 09.09.2024 at serial No.1.

I.A. NO.39711/2024 IN I.A. NO.254946/2023

1. In pursuance to our order dated 09.05.2024 an inquiry was conducted by Dr. Prashant Shriram

Amrutkar, Additional Superintendent of Police Flying Squad C.I.D. Pune, District Pune, Maharashtra and the report signed by Shri Prashant Burde, Addl. Director General of Police, Crime Investigation Department, Maharashtra State, Pune has been placed before us.

2. It will be relevant to refer to paragraph 7 of the said report, which reads as under:-

"7. On the basis of report submitted by Dr. Prashant Amrutkar, Additional Superintendent of Police, Flying Squad, Crime Investigation Department, Pune, report as received from FSL Mumbai and report as received from Sir J.J. Institute of Applied Arts, Mumbai, it is concluded that copy of Bombay Govt. Gazette 1944 part I dated 9.3.1944 which is available at Maharashtra State Archive, Mumbai containing 29 lines from bottom on page no.467 is not genuine. Enquiry has revealed that applicant/society has obtained copy of the Govt. Gazette Part I dated 9.3.1944 from Maharashtra State Archive, Mumbai by making application on 21.09.2023. Therefore, the matter requires further extensive investigation on such Gazettes in the State of Maharashtra."

3. In that view of the matter, we find that the matter can be heard finally.

4. List the matter on 25.09.2024 for final disposal.

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(NARENDRA PRASAD)
DY. REGISTRAR

(ANJU KAPOOR)
COURT MASTER (NSH)