

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

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

IN RE : T.N. GODAVARMAN THIRUMULPAD

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(INTERLOCUTORY APPLICATION FOR 09.09.2024 "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) AND WRIT PETITION(C)NO. 301 OF 2008 WITH I.A. NO. 9108 OF 2024 (Application for Intervention) AND SMC (Crl.)NO. 03 OF 2024 IN RE : MR. RAJESH KUMAR, ADDITIONAL CHIEF SECRETARY, REVENUE AND FOREST DEPARTMENT, MANTRALAYA, MUMBAI "ONLY" ARE LISTED IN W.P.(C) No. 202/1995 "ONLY" ON 09.09.2024

WITH

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

(IA No. 2/2008 - EXEMPTION FROM FILING O.T.

IA No. 9108/2024 - INTERVENTION APPLICATION)

SMC(Crl) No. 3/2024 (XVII)

(FOR ADMISSION)

Date : 09-09-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI

HON'BLE MR. JUSTICE K.V. VISWANATHAN

Counsel for parties

Mr. Harish N. Salve, Sr. Adv. [A.C.] (Not Present)

Mr. A.D.N. Rao, Sr. Advocate [A.C.] (Not Present)
Ms. Aparajita Singh, Sr. Advocate [A.C.] (Not Present)

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

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

Ms. Kanti, Adv.

Mr. Dhruv Mehta, Sr. Adv.
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Ms. Sonal K. Chopra, Adv.
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Ms. Anupma Dhurve, Adv.
For M/s. Mitter & Mitter Co.

Ms. Aishwarya Bhati, A.S.G.
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Ms. Ruchi Kohli, Adv.
Ms. Archana Pathak Dave, Adv.
Mr. Shyam Gopal, Adv.
Mr. Raghav Sharma, Adv.
Mr. Gaurang Bhushan, Adv.

Mr. K. M. Nataraj, A.S.G.
Mr. Mrinal Elkar Mazumdar, Adv.
Mr. Mukesh Kumar Verma, Adv.
Mr. Neeraj Kumar Sharma, Adv.
Indira Bhakar, Adv.
Mr. Harish Pandey, Adv.
Mr. Shashwat Parihar, Adv.
Mr. Vinayak Sharma, Adv.
Mr. Anuj Srinivas Udupa, Adv.
Mr. Piyush Beriwal, Adv.
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Mr. Krishna Kant Dubey, Adv.

Mr. B.K. Pal, AOR

Mr. Nishant R. Katneshwarkar, AOR
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.

Ms. Ranjeeta Rohtagi, AOR

Mr. C.S. Ashri, AOR

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

[1] IN RE : "CONSTRUCTION OF MULTI STOREYED BUILDINGS IN FOREST LAND MAHARASHTRA"

[I] I. A. NO. 2079 OF 2007

[II] I.A NOS. 2301-2302 OF 2008

[III] I.A. NOS. 3044-3045 OF 2011

[IV] I.A. NOS. 2771-2772 OF 2009

[V] I.A.NOS. 111725 AND 154041 OF 2018

[VI] I.A. NO. 254946 OF 2023

AND WRIT PETITION(C)NO. 301 OF 2008

WITH I.A. NO. 9108 OF 2024

AND SMC (CRL.)NO. 03 OF 2024

1. In pursuance to the order passed by this Court on 28.08.2024, Shri Rajesh Kumar, Additional Chief Secretary, Revenue and Forest Department, Mantralaya, Mumbai is personally present in the Court today.

2. Shri Rajesh Kumar has also filed an affidavit tendering unconditional apology. It has been stated in the affidavit that there was neither any intention to cause inconvenience to this Court nor was there any intention to commit contempt of this Court. It has been stated that the objectionable averments appearing in paragraph 4 of the affidavit that was filed on 27.08.2024 and which led to the issuance of the show-cause notice on 28.08.2024, were made inadvertently.

3. On a specific query made, Shri Nishant Katneshwarkar, learned counsel for the State of Maharashtra, stated that various persons were involved in finalising the affidavit which was filed on 27.08.2024. We therefore find that Shri Rajesh Kumar alone cannot be held singly guilty for making those averments. We therefore accept the unconditional apology and discharge the notice issue to Shri Rajesh Kumar, Additional Chief Secretary, Revenue and Forest Department, Mantralaya, Mumbai. SMC (Crl.) No. 03 of 2024 is, accordingly, disposed of.

4. Insofar as the solution for resolving the issue is concerned, as was directed by this Court in its earlier orders, the representatives of the applicants/petitioners and the Collector, Pune have personally visited the alternative land at Mouje

Yewalewadi, Tq. Haveli, District Pune, which can be allotted to the applicants/petitioners.

5. When the matter was called out in the morning session, Shri Dhruv Mehta, learned senior counsel for the applicants/petitioners sought time till lunch break to obtain instructions as to whether the applicants/petitioners are willing to take possession of the said land as compensation in lieu of the land of the applicants/petitioners which was illegally taken into possession by the State Government. We had also observed that in the event the applicants/petitioners are willing for the same, an undertaking on behalf of the State Government will have to be filed, thereby agreeing to give peaceful and vacant possession of the said land and also the land use of the said land would be changed from Public/Semi-Public to Residential.

6. Accordingly, Shri Rajesh Kumar, Additional Chief Secretary, Revenue and Forest Department, Mantralaya, Mumbai has tendered an undertaking, which reads as under:-

"1. Pursuant to the proposal of the Respondent State of Maharashtra the Applicant has agreed for allotment of alternate land admeasuring 24 acres 38 guntas out of Survey No.7 situated at Mouje Yewalewadi, Tq. Haveli, District Pune in his favour.

2. I undertake that the State will handover possession of the abovementioned land after measuring to the Applicant free from all encumbrances within 6 weeks from the receipt of order of this Hon'ble Court.

3. With regard to modification under Section 37 of the Maharashtra Regional and Town Planning Act, 1966, I had consulted with the Chief Secretary and the Principal Secretary (UD-I), Urban Development Department, Maharashtra State. With their consent, I undertake that the said formalities will be completed at the earliest. After completion of the above formalities, the Applicant will be free to use/develop the abovementioned land as per his will."

7. We accept the undertaking and take it on record. However, in addition, we direct that the Collector, Pune shall personally ensure that the alternate land admeasuring 24 acres 38 guntas out of Survey No.7 situated at Mouje Yewalewadi, Tq. Haveli, District Pune would be measured and demarcated and thereafter peaceful and vacant possession of the said land would be handed over to the applicants/petitioners.

8. It is needless to state that if any encroachments are there on the said land, the same shall be removed prior to the said land being handed over to the applicants/petitioners.

9. Insofar as the modification to be issued under Section 37 of the Maharashtra Regional and Town Planning Act, 1966 for changing the land use in question from Private/Semi-Private to Residential is concerned, we direct that the said procedure shall be completed within a period of three months from today.

10. It is further directed that all the formalities for conveying the title of the said land in favour of the applicants/petitioners shall be completed within a period of six weeks from today.

11. List on 15.01.2025.

(NARENDRA PRASAD)
DEPUTY REGISTRAR

(ANJU KAPOOR)
COURT MASTER

Encl: Undertaking, in original, as above.