

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.7648 OF 2022

STATE OF MAHARASHTRA & ANR.

APPELLANTS

VERSUS

DATTATRAYA TUKARAM TUPE & ORS.

RESPONDENTS

WITH

C.A. Nos.7651-7652/2022

C.A. Nos.7671-7672/2022

C.A. Nos.7667-7668/2022

C.A. Nos.7665-7666/2022

C.A. No.7661/2022

C.A. Nos.7663-7664/2022

C.A. Nos.7655-7656/2022

C.A. No.7662/2022

C.A. Nos.7649-7650/2022

C.A. Nos.7657-7658/2022

C.A. Nos.7669-7670/2022

C.A. Nos.7659-7660/2022

C.A. Nos.7653-7654/2022

O R D E R

1. Application (IA No.169132/2023) for substitution is allowed after condoning the delay and setting aside the abatement. Cause title be amended accordingly.

2. These Civil Appeals are at the instance of the

State of Maharashtra and its Authorities assailing the Division Bench judgment of the High Court of Judicature at Bombay dated 06.06.2017 (lead case) as well as subsequent judgments rendered on the same issue though on different dates. Except that the impugned judgments are delivered on different dates, the controversy in all these appeals is identical.

3. The issue that arose for consideration before the High Court was whether the appellants were justified in withholding the consideration of respondents' applications, whereby they sought permission to develop their 'agricultural lands' in accordance with provisions of Maharashtra Regional and Town Planning Act, 1966 (in short, "1966 Act").

4. The facts are being extracted briefly from the lead case. The respondents therein are co-owners of the agricultural land bearing Survey No.94, 168, 169 and 170 of Village Manjari, Taluka Haveli, District Pune, admeasuring about 30 acres. The entries in the revenue record substantiated the respondent-land owners claim that the lands are agricultural in nature. Village Manjari is in close proximity to city of Pune. The respondents, accordingly, applied to the Additional Collector-cum-Competent Authority, Pune, to accord them permission to develop the subject land in accordance with provisions of the 1966 Act. The appellants, however, declined or withheld such approval on the plea that a

criminal case i.e., C.R. No.622/2006, under Sections 420, 467, 468, 471, 472, 201, 203, 209, 114 read with Section 34 of the Indian Penal Code, 1860, was registered at Deccan Gymkhana Police Station on 29.11.2006 in relation to fabrication of the order 630T dated 06.12.2000, purportedly passed under Section 8(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (in short, "1976 Act"). The refusal to grant permission prompted the respondent-land owners to approach the High Court by way of various writ petitions.

5. Two issues fell for consideration before the High Court. Firstly, whether the provisions of the 1976 Act were attracted *qua* the subject-land? The respondent-land owners urged that their land, being agricultural in nature, the same stood excluded from the ambit of the 1976 Act in terms of Section 2(q) thereof, which defines 'vacant land' as "not being land merely used for the purpose of agriculture.....". The respondents explained that neither did they file any declaration under Section 6 nor was a final notification ever published under Sections 9 and 10 of the 1976 Act, including their lands as part of the 'vacant land'. Consequently, no occasion ever arose to take away the physical possession of the land from them. Meanwhile, the 1976 Act was repealed in the State of Maharashtra w.e.f. 29.11.2007. The provisions of 1976 Act were, thus, never enforced against their land(s) at any point in time.

6. The second issue, the respondent-land owners raised, pertained to the legal effect of C.C. No.622/2006, a brief reference to which has already been made in Para 4 of this order. They argued that neither they were named as accused in the case of fabricating the order 630T dated 06.12.2000 nor are they facing trial in the above-stated case.

7. The High Court took notice of the admitted fact that the subject-land never fell within the ceiling limit and its possession was never taken under the 1976 Act and that the respondents continued in its cultivating possession till such time the 1976 Act was repealed. The High Court consequently has held that the 1976 Act is inapplicable and even under the saving clause contained in the repealed Act, there is no provision based on which the rigours of that Act could be attracted.

8. So far as C.R. No.622/2006 is concerned, the High Court has, in paragraph 23 of the impugned judgment, noticed and rightly so that after the investigation, the role and complicity of a total of eight accused were established, and the respondent-land owners were not among those accused persons. No chargesheet was ever filed against them, and as such, there is no accusation against the private respondents re: fabrication of the order under the 1976 Act.

9. Having held so, the High Court has set aside the communications through which permission to develop the

subject land was denied to the respondents. A further direction has been issued to consider their applications in accordance with the law and not to reject the same on the ground of pendency of criminal trial, i.e., C.R. No.622/2006.

10. The aggrieved State and its Authorities are before us.

11. We have heard learned State counsel as well as learned senior counsel on behalf of the private respondents and perused the record.

12. Under the Legislative Scheme of the 1976 Act, 'agricultural land' has been explicitly excluded from the ambit of 'vacant land'. The ceiling limit under Section 4 of the 1976 Act was applicable only with respect to the vacant land in an urban agglomeration falling within the categories described therein. Once the 'agricultural land' is expressly excluded from the definition of vacant land, the High Court has correctly held that the provisions of the 1976 Act would not be attracted to such land. It is undeniable that neither the private respondents were asked to submit a declaration under Section 6 nor any Final Statement under Section 10 declaring their lands or part thereof within the ceiling limits of 1976 Act was ever notified. The possession of the subject-land was also not taken till the Urban Land (Ceiling and Regulation) Repeal Act, 1999 (in short, "Repeal Act") came to be enforced in the State of

Maharashtra vide notification dated 29.11.2007.

13. Section 3(1)(a) of the Repeal Act, contains a saving clause for such vacant lands, which have vested in the State under Section 10(3) of the 1976 Act and when possession of that land had taken by the State Government or duly prescribed competent authority. Since possession was never taken in the instant case, the subject-land remained excluded from the purview of the 1976 Act. We hasten to add that the 1976 Act being an expropriatory legislation, its provisions are to be strictly construed and cannot be applied to a land by implication or through an inference.

14. As regard to the second ground on the basis of which the permission was withheld, namely, the pendency of C.C. No.622/2006, it is fairly admitted by learned State counsel that the respondent-land owners were never nominated as the accused persons in the said case and even after investigation, no incriminating material was found against them. Consequently, their names were not included among those eight accused against whom chargesheet was filed. Thus, the respondents are not facing trial in the above-mentioned case. The High Court, is thus fully justified in holding that the pendency of C.C. No.622/2006 cannot be an impediment against consideration of the applications moved by the respondent-land owners under provisions of the 1966 Act.

15. We see no ground to interfere with the impugned

judgments of the High Court. The appeals are,
consequently, dismissed.

.....J.
(SURYA KANT)

.....J.
(K.V. VISWANATHAN)

New Delhi;
February 07, 2024

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

Civil Appeal No(s).7648/2022

STATE OF MAHARASHTRA & ANR.

Appellant(s)

VERSUS

DATTATRAYA TUKARAM TUPE & ORS.

Respondent(s)

(IA No. 170109/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA
No.170111/2023 - EXEMPTION FROM FILING O.T.)

WITH

C.A. No.7651-7652/2022 (III)

C.A. No.7671-7672/2022 (III)

(IA No.7336/2022 - APPLICATION FOR VACATION OF INTERIM ORDER)

C.A. No.7667-7668/2022 (III)

C.A. No.7665-7666/2022 (III)

(IA No.178016/2023 - APPLICATION FOR CONDONATION OF DELAY IN FILING
THE APPLICATION FOR SETTING ASIDE THE ABATEMENT, IA No.169132/2023
- APPLICATION FOR SUBSTITUTION, IA No. 7386/2022 - APPLICATION FOR
VACATION OF INTERIM ORDER, IA No. 178015/2023 - SETTING ASIDE AN
ABATEMENT)

C.A. No.7661/2022 (III)

C.A. No.7663-7664/2022 (III)

C.A. No.7655-7656/2022 (III)

C.A. No.7662/2022 (III)

(IA No. 170114/2023 - APPROPRIATE ORDERS/DIRECTIONS, IA
No.170115/2023 - EXEMPTION FROM FILING O.T.)

C.A. No.7649-7650/2022 (III)

(IA No. 111618/2022 - APPLICATION FOR VACATION OF INTERIM ORDER, IA
No. 7366/2022 - APPLICATION FOR VACATION OF INTERIM ORDER)

C.A. No.7657-7658/2022 (III)

C.A. No.7669-7670/2022 (III)

(IA No. 7338/2022 - APPLICATION FOR VACATION OF INTERIM ORDER)

C.A. No.7659-7660/2022 (III)

C.A. No.7653-7654/2022 (III)

Date : 07-02-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Appellant(s) Mr. Rahul Chitnis, Adv.
Mr. Siddharth Dharmadhikari, Adv.
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Mr. Shyam Divan, Sr. Adv.
Mr. Gaurav Agrawal, Sr. Adv.
Mr. Suresh Sabrad, Adv.
Mr. Siddhartha Iyer, AOR

Mr. V. N. Raghupathy, AOR
Mr. Manendra Pal Gupta, Adv.
Mr. Varun Varma, Adv.
Mr. M. Bangaraswamy, Adv.
Mr. S. Spandana Reddy, Adv.

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

1. Application (IA No.169132/2023) for substitution is allowed after condoning the delay and setting aside the abatement. Cause title be amended accordingly.
2. The appeals are dismissed in terms of the signed order.
3. All pending applications, if any, stand disposed of.

(ARJUN BISHT)
COURT MASTER (SH)

(PREETHI T.C.)
COURT MASTER (NSH)
(signed order is placed on the file)