



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1561 OF 2022

M/s. M.P. Homes

.. Petitioner

Versus

State of Maharashtra and Ors.

.. Respondents

-
- Mr. Drupad Patil a/w Mr. Navitkumar S. Pansare, Advocates for Petitioner.
 - Mr. Saurabh Railkar a/w. Ms. Devashri G. Karandikar, Advocates for Respondent No.5.
 - Mrs. V.S. Nimbalkar, AGP for Respondents – State.

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CORAM : MILIND N. JADHAV, J.

DATE : JUNE 08, 2026.

JUDGEMENT:

1. Heard Mr. Patil, learned Advocate for Petitioner, Mrs. Nimbalkar, learned AGP for Respondent – State and Mr. Railkar, learned Advocate of Respondent No. 5.

2. Present Petition challenges Order dated 11.11.2020 passed by Respondent No.1 – State directing Petitioner to deposit 100% of Ready Reckoner valuation for regularisation of change of user to Non – Agricultural purpose and 75% of Ready Reckoner valuation for regularization of conveyance as transfer premium on account of Petitioner’s purchase of two parcels of land owned by Petitioner bearing CTS Nos. 456/1 and 456/2 admeasuring 249.6 square meters and 111.2 square meters respectively (for short “**subject lands**”). The

impugned order is appended at Exhibit "A" page No. 23 to the Petition.

3. Brief facts relevant for adjudication of present Petition are as under:-

3.1. One Savlaram Trimbak Natu was perpetual lessee in respect of one parcel of land out of subject lands bearing CTS No.456/1 admeasuring 249.6 square meters which was classified under Tenure "D" during pre – independence era. On 02.05.1934, after the demise of Savlaram Trimbak Natu, name of his wife one Smt. Sitabai Savlaram Trimbak was mutated in revenue record. On 14.06.1950 and 08.06.1953 Sitabai sold some part of subject lands vide registered Sale Deeds to one Dwarkabai Vishwanath Joshi and one Ramabai Atmaram Athavane. After their demise, names of their legal heirs were mutated in revenue record. Petitioner executed registered Sale Deed dated 10.09.2013 and purchased these parcel of subject lands from the legal heirs of Dwarkabai Vishwanath Joshi and Ramabai Atmaram Athavane.

3.2. Shridhar Trimbak Natu was also the perpetual lessee in respect of one more parcel of land bearing CTS No.456/2 admeasuring 111.2 square meters which was also classified under Tenure "D" during the pre – independence era. On 30.05.1931, Shridhar Trimbak Natu transferred this parcel of land to one Purushottam Narayan Gone. On 19.11.1947, this land was further transferred to one Gopal Bhikaji

Phatak and later transferred to one Sushilabai Vishnu Kulkarni. On 17.04.1997, Sushilabai expired and her heirs were brought on record. On 10.09.2013, Petitioner purchased this parcel of land vide registered Sale Deed from heirs of Sushilabai.

3.3. Thus Petitioner purchased the subject lands.

3.4. Petitioner obtained requisite permissions from Respondent No.2 – Corporation to develop the subject lands. In 2021, after the development was complete, Respondent No.2 issued Part Occupancy Certificate in respect of Petitioner’s newly developed multi – storey buildings. Private Respondent No.5 addressed complaint dated 03.11.2017 to Tehsildar, Panvel (for short “**Respondent No.4**”) after which Petitioner filed application dated 20.11.2017 before Respondent No. 4 seeking change of tenure from “D” to “A” with respect to subject lands. Respondent No.4 forwarded his report along with Petitioner’s application seeking change of tenure to District Collector (for short “**Respondent No.3**”) who addressed letter dated 03.03.2018 to Petitioner stating that in view of Government Resolution dated 27.08.2019, the application cannot be allowed. Private Respondent No.5 addressed further complaints dated 07.06.2018, 23.10.2018 and 14.11.2018 to Respondent No.3 seeking action against Petitioner for violation of terms of original lease under which subject lands were leased to original occupants. Petitioner filed its reply subsequent to

which Respondent No.3 conducted hearing and passed order dated 26.03.2019 forwarding Petitioner's application to State Government seeking appropriate orders and directions. Being aggrieved by the twin orders dated 03.03.2018 and 26.03.2019 both passed by Respondent No.3, Petitioner filed Revision Application No.243 of 2020 before Divisional Commissioner, Konkan Division who passed order dated 30.09.2020, and held that Petitioner's application cannot be considered since the same it was before Respondent No.1 – Minister.

3.5. Being aggrieved, Petitioner filed Revision Application No. 239 of 2020 before Respondent No.1 – Minister. By the impugned order dated 11.11.2020, Respondent No.1 partly allowed Petitioner's application and directed Petitioner to deposit of 75% of Ready Reckoner valuation of subject land towards transfer of subject lands and 100% of Ready Reckoner valuation of subject lands towards change of use of subject lands to Non – Agricultural purpose. On 16.12.2020 under protest, Petitioner deposited sum of Rs.1,20,75,145/- with Respondent No.3 and was issued challan. However being aggrieved, Petitioner filed present Petition to avail the order dated 11.11.2020 and seeks refund of the deposited amount of Rs.1,20,75,145/- paid in pursuance of the said order.

4. Mr. Patil, learned Advocate for Petitioner would submit that the impugned order dated 11.11.2020 passed by Respondent No.1 is

bad in law, baseless, passed without due consideration of facts and law and deserves to be set aside. He would submit that Respondent Nos.3 and 4 did not contest classification of subject land as Tenure “D” which is described as “Lands held on perpetual lease”. He would submit that Bombay Land Revenue Rules, 1879 (for short “**BLRC**”) and Bombay Land Revenue Rules, 1921 (for short “**Bombay Rules, 1921**”) were governing land revenue law prior to present land revenue laws coming into force. He would submit that Sections 68 to 73 of BLRC discuss “nature of occupancy of land” and these provisions state that unless otherwise provided, occupancy of land would be transferrable and heritable. He would submit that the Bombay Rules, 1921 enumerate a list of 7 tenures. He would submit that subject lands are classified as Tenure “D” in revenue record under Rule 43 of Bombay Rules, 1921. He would submit that that perusal of BLRC, 1879 would show that land granted in perpetuity is freely transferable without any embargo.

4.1. He would submit that presently, BLRC is repealed and in its place Maharashtra Land Revenue Code, 1966 (for short “**MLRC**”) is enacted and applicable. He would submit that Section 29 of the MLRC states that Class – I land is land held in perpetuity and freely transferable. He would submit that subject lands were granted in perpetuity and are freely transferrable as per both land revenue laws i.e. MLRC and BLRC, hence occupants of subject lands are rightly classified as Class – I holders, therefore Respondent Nos. 3 and 4

cannot levy transfer fee or any charges for transfer of the subject lands. He would submit that Serial No. 3 in the table enumerated in Rule 3(4)(B) of Maharashtra Land Revenue (Conversion of Occupancy Class II and Leasehold Lands into Occupancy Class I) Rules, 2019 (for short “**MLRC Conversion Rules, 2019**”) stipulates premium of 25% to be levied for lands held on leasehold rights for residential purposes hence Respondent No.1 ought to have at the highest levied premium of 25% of the market value of the subject lands upon Petitioner for change of user of subject lands to NA purpose.

4.2. He would submit that Government Resolutions dated 20.02.2016, 08.09.1983 and 27.08.2014 relied upon by Respondent Nos. 3 and 4 do not have any bearing or relevance on the Petitioner’s case. He would submit that since property extract document of subject lands records the name of purchaser as holder of the subject lands, the subject lands cannot possibly vest in the State Government. He would submit that provisions of Section 73A(1) of BLRC cannot apply to Petitioner’s case. He would submit that Rule 35 of Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971 pertains to “Long term leases for non agriculture land” and deals with sanctions for grant of long term leases of land for Non – Agricultural purpose, hence this Rule does not apply to the facts of the Petitioner’s case. He would submit that this Rule does not state that 100% of Ready Reckoner market value of subject lands ought to be paid for seeking change of

user to Non – Agricultural purpose. Hence the impugned order levying 100% market value for regularisation of change of user is incorrectly levied upon the Petitioner.

4.3. He would submit that Government Resolutions dated 20.02.2016, 08.09.1983 and 27.08.2014 do not have any application to the facts of Petitioner's case. He would submit that Government Resolution dated 08.09.1983 states that any person who is a Class II Occupant and alienates the land shall pay 75% of market value of the land to State Government and the purchaser shall hold the land as Class II Occupant with restrictions on transfer. He would submit that this Government Resolution does not apply to Petitioner's case since subject lands are held in perpetuity and freely transferrable as per Rule 43 of Bombay Rules, 1921 and under Section 29 of MLRC. Hence he would argue that levy of 75% of Ready Recknor Valuation of regularisation of conveyance as transfer premium is not applicable to Petitioner's case. He would submit that Government Resolution dated 27.08.2014 was issued in respect of Tenure "D" situated in Raigad district and pertains to payment of 25% of prevalent Ready Reckoner rate as on 01.01.2014 for renewal of lease and hence this Government Resolution cannot apply to the Petitioner's case as well. He would submit that Government Resolution dated 20.02.2016 issued directions to set occupancy price and lease fees for lands, hence it seeks to bring uniformity in these amounts.

4.4. He would submit that Respondent Nos.3 and 4 recorded transfer of subject lands between Petitioner's predecessors – in – title without any objections and did not levy premium of 75% of market value of land towards transfer. He would submit that Respondent Nos. 3 and 4 raised this objection only when Petitioner commenced development on subject lands. He would submit that Petitioner obtained all permissions and approvals from Planning Authority i.e. Respondent No.2 – Corporation and even Part Occupancy Certificate was issued. He would submit that Respondent Nos. 3 and 4 accepted previous transfers of subject lands which were duly recorded in the revenue record without raising any objection or levy of transfer fees therefore Respondent Nos. 3 and 4 now cannot levy a premium of 175% of the market value of the subject lands upon Petitioner towards change of user to NA and transfer premium. He would submit that by Government Resolution dated 15.03.2021 land Occupancy of Tenure “B” can be converted to Tenure “A” subject to payment of premium, which is 75% of the total amount paid in respect of conversion, which the Petitioner is willing to forfeit. On the basis of above submissions, he would urge the Court to allow the present Petition and direct refund of the balance amount paid by Petitioner in pursuance of Order dated 11.11.2020.

5. *PER CONTRA*, Ms. Nimbalkar, learned Advocate for Respondent Nos. 3 and 4 – State would submit that the impugned

order is correct, legal and passed with due consideration of facts and documents and deserves to be upheld. She would submit that subject lands were leased for a period of 99 years for the purpose of planting trees and the user of the land could not be changed without permission of the State Government. She would submit that Petitioner did not seek permission and suppressed material facts from the Planning Authority in order to obtain sanction plan and begin construction upon the subject lands. She would argue that Petitioner obtained sanction plan by suppressing material facts and manipulating the lease deed to state that subject lands were purchased by Petitioner from private individuals. She would submit that Petitioner sought permission for transfer of ownership and change of user only after the Planning Authority directed it to do so.

5.1. She would submit that Respondent No.1 passed order dated 11.11.2020 allowing transfer and change of user of subject lands subject to Petitioner depositing the unearned income from the subject lands and directed District Collector to calculate the same and communicate it to the Petitioner. She would submit that District Collector calculated the amount and addressed letter dated 14.12.2020 to Petitioner calling upon it to deposit the same. She would submit that Petitioner deposited the amount with the State Government and submitted the challan with the District Collector and then filed the present Petition.

5.2. She would submit that thereafter Collector, Raigad addressed letter dated 24.12.2020 directing Respondent No.4 and Deputy Superintendent of Land Records, Panvel to record Petitioner's name in the revenue record of subject lands. She would submit that Petitioner's name was duly mutated in the record of rights of subject lands. She would submit that suit lands were sold and transferred by the erstwhile owners to Petitioner without obtaining permission of the State Government. She would submit that perusal of the property card, would show that the lease period of subject lands expired on 05.06.1961 and was not renewed further, hence ownership of the subject lands reverted back to the original owner i.e. State Government. Therefore she would submit that permission from State Government was required for development of subject land. She would submit that subject land were classified as "agricultural" for the purpose of "plantation of trees", hence they could not be used for any other purpose and if so, permission from the State Government was required to to be taken in accordance with law.

5.3. She would submit that Chapter VI of BLRC deals with "Grant, Use and Relinquishment of Unalienated Land" and Section 73A(1) provides that any transfer or use other than for which it is allotted requires necessary permission from the Competent Authority to transfer the land. She would submit that Rule 43 of the Bombay Rules, 1921 does not apply to the facts of the present case instead,

Rule 55 of the Bombay Rules, 1921 would apply. She would submit that Rule 55 states that un-aliated land to which no other rule applies shall be disposed of by the Collector by and in any manner and period subject to conditions if any. She would submit that since allotment of subject lands and considering the tenure of the lease for the purpose of plantation of trees as per Rule 55 of Bombay Rules 1921, the ownership and possession of the subject lands remains with the State Government. She would submit that onus is on Petitioner to prove the subject lands were recorded under Rule 43 of Bombay Rules, 1921 and Petitioner ought to have produced the prescribed documents as per Rule 43(1)(a) of the Bombay Rules, 1921. She would submit that List of Tenures appended at Exhibit "M" of Petition is not a certified copy neither it is a Government Resolution / Circular.

5.4. She would submit that since Petitioner violated the terms of the lease, and State Government was entitled to take possession of the subject lands. However, since Petitioner had developed the subject lands and even sold flats to third parties in the project, Respondent No.1 passed the impugned order levying transfer charge and regularization charge stating that State Government possessed power under Rule 35 of Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971 which provides that on payment of 100% of Ready Reckoner valuation the tenure could be regularised.

5.5. She would submit that in order to curb misuse of land tenure by lessees, State Government has issued three Notifications dated 08.09.1983, 27.08.2014 and 01.02.2016 under which Petitioner is charged 75% of unearned income of the subject lands as transfer premium for illegal holding unauthorised land and 100% for regularisation of change of user to Non – Agricultural. She would submit that both charges levied are in accordance with law and as per the policies of the State Government, hence there is no justified ground for Petitioner to seek refund of the amounts paid towards transfer premium and change of user of subject lands. She would submit that impugned order dated 11.11.2020 is passed to regularize transfer of subject lands and regularize change of user, hence it is in the interest of the Petitioner itself.

5.6. She would submit that subject lands were standing in the name of State Government and were Class II land, hence ownership of subject lands was with the State Government as per Rule 55 of Bombay Rules, 1921. She would submit that post independence, suit lands stood governed by MLRC and rules framed thereunder and Rule 3(4) of MLRC Conversion Rules, 2019 provides that if there is no violation of the terms of the lease deed, then upon inspection of the Class II occupancy land, it may be converted to Class I occupancy by the Competent Authority upon payment of Nazrana. She would urge me to uphold the impugned order dated 11.11.2020 and dismiss the present

Petition or in the alternative direct Petitioner to pay 25% premium on Ready Reckoner valuation of suit lands as per provisions of MLRC Conversion Rules, 2019.

6. Mr. Railkar, learned Advocate for private Respondent No.5 would oppose the Petition and submit that subject lands were transferred at least 5 times ultimately vesting with Petitioner purchasing the same. He would submit that any execution of Sale Deed to transfer subject lands is illegal since they are owned by the State Government. He would submit that on 03.11.2017 Respondent No.5 filed complaint with Respondent No.4 regarding Petitioner developing the subject lands. He would submit that on 20.11.2017 Petitioner filed application before Respondent No.4 seeking change of tenure from Tenure "D" to Tenure "A" and Respondent No.4 directed Circle Officer, Panvel to file his Report. He would submit that Petitioner submitted his say stating that he was ready and willing to pay requisite charges towards regularization and conversion of subject lands, hence Petitioner was duly aware that subject lands belonged to State Government and his subsequent filing of application for regularization is therefore an afterthought.

6.1. He would submit that since no action was taken, on 15.01.2018 Respondent No.5 filed another complaint before Respondent No.4 and addressed letter dated 16.01.2018 to Circle

Officer Panvel seeking an opportunity to be heard which was subsequently granted. He would submit that at that time Petitioner was ready and willing to pay all necessary premiums however presently, Petitioner has taken a contradictory approach and sought to challenge the entire amount paid by him in respect of regularization of change of user to Non Agricultural and transfer permission.

6.2. He would submit that Petitioner purchased subject lands and began development on the same without seeking permission from the State Government. He would submit that Petitioner was fully aware that subject lands were leased by the pre – independence Provincial Government and that lease had expired in 1961, thereby ownership of the subject lands reverting back to Respondent No.1 – State. He would submit that Petitioner ought to have therefore taken permission from the State Government before purchase of subject lands. He would submit that Petitioner is therefore precluded from seeking reduction of premium paid towards regularization, illegal purchase and change of user.

7. I have heard Mr. Patil, learned Advocate for Petitioner, Ms. Nimbalkar learned AGP for Respondent No.3 and 4 and Mr. Railkar learned Advocate for Respondent No.5 and perused the record of the case with their able assistance. Submissions made by the learned Advocates at the bar have received due consideration of the Court.

8. At the outset, short point for determination is whether Petitioner is entitled to refund of 175% premium paid on Ready Reckoner valuation of subject lands towards change of user to Non Agriculture and transfer premium. It is seen that Petitioner has shown its *bonafides* by depositing the premium amounts as directed by Respondent No.1 with Respondent No.3, however has raised questions as to legality of the levy and its quantification in accordance with law.

9. It is seen that pre – independence, subject lands were perpetually leased to predecessor – in – title for plantation of trees and were classified as Tenure “D” i.e. lands granted in perpetuity. It is seen that Rule 43(1)(a) of Bombay Rules, 1921 provides that lands granted in perpetuity shall be transferrable and Rule 43(1)(b) of Bombay Rules, 1921 states that if land is assessed for agriculture, the assessment shall be altered in accordance with law. Rule 43 of Bombay Rules, 1921 is relevant and reproduced hereunder for further reference: -

43. (1) Save in special cases which the Collector with the sanction of Government otherwise or directs, or in localities falling under rule 44, land for building sites shall be granted in accordance, with the following provisions: -

(a) The land shall be granted in perpetuity subject to the provisions of the first paragraph of section 68, and shall be transferable.

(b) Where the land has already been assessed for agriculture, the assessment shall be altered under whichever of rules 81 to 85 has been applied to the locality.

(c) Where the land has not been assessed the Collector shall fix the assessment in accordance with the principles laid down for

alteration of assessment in rules 81 to 86 and the provisions of the said rules shall as far as may be, apply.

(d) All such assessments shall be fixed for the period specified in Rule 87 (a) and may be commuted when they do not exceed one rupee in accordance with the provisions of rule 88.

(2) In the case of such grants an agreement in form F or form H, as the Collector may deem fit, shall ordinarily be taken from the person intending to become the occupant, and in the case of land in development schemes undertaken by Government in the Bombay Suburban District an agreement shall be taken in form HH. In the case of grants in which an agreement in Form H is to be taken, the Collector may, with the approval of the Commissioner annex such additional conditions to the grant as the Collector thinks fit.

(3) When the land is granted on inalienable tenure, (99) the clause specified in, form I shall be added to the agreement.

(4) The declaration below the agreement shall be subscribed by at least one respectable witness and by the patel and village accountant of the village in which the land is situate.

10. Rule 43 of Bombay Rules, 1921 was enacted prior to Independence and in the present case, since subject lands were leased to lessees for agricultural purposes prior to Independence, this Rule would be applicable to subject lands during that era. It is seen that Rule 43(1)(a) of Bombay Rules, 1921 does not mandate permission of the Government nor payment of premium to transfer lands classified as Tenure “D” nor does the aforementioned Rule hinder change of user of such land. Therefore, original lessees were well within their rights to transfer the subject lands without permission of the State Government. It is seen from the Property Register of Panvel City, District Kolaba (presently known as Raigad) appended to the Petition at Exhibit “M” page No.72 that subject lands were classified as Tenure “D” are governed by Rule 43 of Bombay Rules, 1921 and it has changed hands

at least 5 time prior to they being purchased by the Petitioner.

11. It is further seen that post – independence, State Government enacted MLRC, 1966 which repealed BLRC, 1879 and as such provisions of MLRC, 1966 are now applicable to subject lands. It is seen that Section 29 of MLRC enumerates 3 classes of occupants as follows:- (i) Occupants - Class I, (ii) Occupants - Class II and (iii) Government lessees. Attention is drawn to Section 29(2)(b) of the MLRC which provides that, Class I Occupants are those who, immediately before the commencement of MLRC, held land without any restrictions on the right to transfer in accordance with the provisions of any law relating to land revenue in force in any part of the State immediately before such commencement. This provision applies squarely to the subject lands in the present case. It is seen that by virtue of classification of Tenure “D” and Rule 43 of Bombay Rules 1921, subject lands fall within the purview of Section 29(2)(b) of MLRC as there were no restrictions on transfer of such lands as per revenue laws prior to commencement of MLRC i.e. BLRC and Bombay Rules, 1921. However since subject lands were granted in perpetuity and were freely transferrable, it is seen that subject lands are clearly covered under Section 29(2)(b) of MLRC.

12. It is seen from the Property Cards pertaining to the subject lands appended at Exhibits “B” and “C” to the Petition that subject

lands are classified as Tenure “D”, therefore Rule 43 of Bombay Rules 1921 squarely applies to subject lands and hence no premium nor permission from the State Government for transfer is required to be paid and or levied for transfer of subject lands. It is seen that Respondent Nos. 3 and 4 took no objection to the previous 5 transfers between predecessors – in – title of Petitioner neither was any premium levied upon them hence Respondent Nos. 3 and 4 are precluded from raising any objection to Petitioner’s purchase of subject lands and mandate levy of transfer premium for regularisation of conveyance. Mr. Patil would draw my attention to paragraph No.3 in the Affidavit – in – Reply dated 11.08.2023 filed by Respondent Nos.3 and 4 stating that subject lands are classified as Tenure “D” and can be alienated without prior permission of Respondent No.3. If that be the case then levy of transfer premium by the State is illegal and unjustified on the admission of the State functionaries itself. Respondent No.3 ought to have examined position of land revenue laws prior to enactment of the MLRC, 1966 with respect to subject lands to effectively determine whether transfer premium is to be levied upon transfer of suit lands. It is seen that contrary stand is taken by Respondent Nos. 3 and 4 in its reply which is contrary to the finding returned in the impugned order levying 75% transfer provisions for regularisation of conveyance of Petitioner. The provisions of BLRC, Bombay Rules 1921 and MLRC are clear and unambiguous to the

extent that subject lands are freely transferable and no transfer premium nor permission from Collector is required to be taken in respect of the same and the same is admitted by Respondent Nos. 3 and 4 before this Court as well.

13. It is seen that Ms. Nimbalkar has relied upon Rule 35 of Maharashtra Land Revenue (Disposal of Government Land) Rules, 1971 to contend that State Government possesses power to grant land and regularize the tenure upon realization of 100% of Ready Reckoner valuation. It is seen that this Rule does not pertain to change of tenure of land, change of use nor regularization of land instead this provision pertains to grant of lease for unoccupied land and renewal thereof. The aforesaid Rule 35 does not provide for levy of 100% premium towards regularization of tenure. Therefore, the submission of Ms. Nimbalkar cannot be countenanced and accepted at all as applicable to Petitioner's case.

14. It is seen that Ms. Nimbalkar would rely on a number Government Resolutions viz; dated 08.09.1983, 27.08.2014 and 20.02.2016 to justify levy of 175% premium towards change of user to Non Agricultural and regularization of conveyance as transfer premium of subject lands. It is seen that Government Resolution dated 08.09.1983 pertains to Class II Occupancy lands and provides that alienor shall pay to the State Government 50% of unearned income

and hold the land as Occupancy Class II. However reliance on this Government Resolution is misplaced since subject lands are classified as Occupancy Class I, hence this Government Resolution cannot apply to subject lands. It is seen that Government Resolution dated 27.08.2014 pertains Class – II lands situated in Raigad district, however suit lands are classified Occupancy Class – I, hence this Government Resolution also does not apply to the subject lands. Next Government Resolution dated 01.02.2016 pertains to directions issued by the State Government to bring about uniformity in occupancy charges and lease amounts and this Government Resolution nowhere mention levy of 75% premium for regularisation of conveyance as transfer premium neither does it mention levy of 100% premium for change of user, hence reliance placed on this Government Resolution is completely misplaced and cannot be accepted.

15. It is seen that private complainant being Respondent No.5 supported the submissions of Respondent Nos. 3 and 4 however Respondent No. 5 is neither an officer of the State Government nor does Respondent No. 5 claim to be affected by the development of subject lands by Petitioner. Therefore, Respondent No. 5 has failed to show his reasons to interfere with Petitioner's development of subject lands. Perusal of record would show that Respondent No. 5 made representations before the revenue authorities who duly considered and acted upon the same in accordance with law. If Respondent No. 5

was aggrieved by directions by Revenue Authorities, he ought to have taken steps in accordance with law as available to him and in accordance with law. *Prima facie* it is seen that Respondent No.5 does not have any *locus* before this Court in regard to the issue at hand. In any event the State and its functionaries have adequately opposed and argued the present Petition.

16. It is seen that Respondent Nos. 3 and 4 did not object to previous transfers of subject lands hence there can be no justifiable reason for Respondent Nos. 3 and 4 to now object to Petitioner's purchase of subject lands and levy transfer premium @ 75% of the Ready Reckoner Value. Perusal of the record and relevant legislation would show that there is no provision in pre – independence land revenue law nor post -independence land revenue law that imposes levy of 75% premium to regularize transfer of subject lands. It is seen that Respondent No.1 did not rely upon any Government Resolution to justify the quantification and imposition of 75% levy for transfer upon Petitioner and this in itself is a patent illegality on the face of record which deserves to be dealt with and rejected for all the above reasons.

17. It is seen that Respondent No.1 failed to state any reason, refer to any law nor rely upon any decision of this Court or of the Supreme Court to show that levy of premium upon Petitioner is just and necessary for its failure to take permission of Respondent Nos. 3

and 4 for transfer of suit lands. No material is placed on record by Respondents even during hearing of present Petition to show that application and levy of these premiums upon subject lands is in accordance with law. It is further seen that Respondent No.1 failed to consider that Respondent No. 2 being Planning Authority, granted permission to begin development of subject lands with Commencement Certificate and even issued partial Occupation Certificate in 2021 therefore Respondent Nos. 3 and 4 ratified Petitioner's purchase of subject lands in the revenue records and therefore Respondents now cannot be allowed to take objection for transfer of subject lands to Petitioner nor take objection to Petitioner's failure to change user of subject lands and granted all permissions to begin development and allow occupation of the developed structures constructed by the Petitioner on the subject lands.

18. Insofar as levy of 100% of ready reckoner valuation for regularization of change of user to non-agricultural purpose is concerned, attention is drawn to paragraph No. 13 of the affidavit in rejoinder dated 15.07.2025 filed by Petitioner appearing at page No. 243 of the Writ Petition wherein Petitioner has made the following statements:-

"13. I say and reiterate that the land being subject to applicability of Rule 43 of Bombay Land Revenue Rules 1879 is held in perpetuity and is freely transferable. In such circumstances, the subject lands shall be subject to the Government Resolution dated 15/03/2021 whereby the Government has directed that such lands having B Tenure or any other Tenure shall be

subject to payment of premium as per Sr. No. 3 of Rule 3 (4) (B) of Maharashtra Land Revenue (Conversion of Occupancy Class-II and Leasehold lands into Occupancy Class-I lands) Rules, 2019. As per the said Rules, the Petitioner is ready and willing to forfeit 75% amount of the total 175% amount paid by the Petitioner and seeks refund of the remainder of the amount."

18.1. From the above, it is seen that insofar as this levy is concerned, Petitioner has no objection whatsoever if the same stands recovered from the Petitioner. Even if the Petitioner would have objected to this levy, Petitioner would have to show whether change of user to non-agricultural purpose was effected earlier by any of the predecessors-in-title of the Petitioner. From the above, it is clear that even though the subject lands changed hands through five different parties prior to they have purchased by Petitioner, none of those transactions or holders of the subject lands applied for change of user to non-agricultural purpose. Petitioner being the developer desires to develop the subject lands and pursuant to the registered sale deed and transaction of Petitioner, Petitioner is unable to show the permission for change of user to non-agricultural purpose. The subject lands undisputedly were the agricultural lands and were given to the original lessee / occupants for the specific purpose of plantation of trees. In that view of the matter, if the Petitioner has developed the subject lands, it is incumbent upon the Petitioner to pay change of user fee to convert the agricultural land for requisition. This levy is at the rate of 100% of ready reckoner valuation of the subject lands as

computed in the impugned order. Petitioner has in the aforesaid affidavit in rejoinder / pleadings filed in the present Petition agreed to charged this particular levy of 100% of the ready reckoner valuation towards change of user to non-agricultural purpose which has been effected under the impugned order dated 11.11.2020.

19. In view of the aforesaid observations and findings, impugned order dated 11.11.2020 is partially upheld to the extent of the State Government being directed to levy 100% market value of the ready reckoner valuation as on the appointed date on change of user of subject lands to non-agricultural purpose. To this extent the impugned order is upheld. However, further levy by the State Government at the rate of 75% of ready reckoner valuation for regularization of conveyance as transferred premium stands quashed and set aside. State Government is therefore directed to retain the amount towards regularization of change of user of subject lands to non-agricultural purpose and return back the amount deposited by Petitioner towards regularization of conveyance as transferred premium to the Petitioner. Refund shall be effected to the Petitioner within a period of two weeks from today positively on the basis of server copy of this order without any further delay whatsoever failing which the State Government will be liable for appropriate action.

20. Copy of this judgment shall be brought to the notice of the

concerned officer of the State Government and more specifically Respondent Nos. 2 and 3 for effective compliance by the Government Pleader of this Court. Learned AGP appearing in the matter is directed to ensure that the concerned officer of the State is duly informed of passing of this order for compliance.

21. Petition is partly allowed and disposed of in the above terms.

[MILIND N. JADHAV, J.]

22. After the above judgement is pronounced, Ms. Nimbalkar persuades the Court to stay the effect and validity of the judgement to enable the Government to challenge the same in the Supreme Court. However, in view of the observations and strong findings given in the aforesaid judgement, I am not inclined to accept the request made by Ms. Nimbalkar and the request made by her stands rejected.

[MILIND N. JADHAV, J.]

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