

Vimal Babu Dhumadiya& Ors Vs State Of Maharashtra & Ors

Court: Supreme Court Of India

Date of Decision: Jan. 17, 2025

Acts Referred: Constitution of India, 1950 Article 32, 136

Hon'ble Judges: Vikram Nath, J; Sajay Karol, J; Sandeep Mehta, J

Bench: Full Bench

Advocate: Mathews J Nedumpara, Chand Qureshi, Maria Nedumpara, Hemali Kurne, Rohini Amin, Shameem Fayiz, Sushma Sharma

Final Decision: Dismissed

Judgement

Vikram Nath, J

1. This is a petition under Article 32 of the Constitution of India praying for the following reliefs:

a) Declare Ext.A/judgment to have been rendered as illegal for having been passed without hearing the necessary parties; and

b) Direct the respondents 1 to 4 to survey the properties upon which the apartments of the petitioners and others, have been constructed by the 10th respondent, to

ascertain encroachment upon government land; and

c) Direct respondents 1, 4, to regularize the petitioners' apartments and to grant occupancy/leasehold rights over the alleged

government lands over which their apartments have been constructed; and

d) Restrain respondents 1 to 4, and their agents, from interfering in any manner whatsoever, with the enjoyment of the apartments owned by the petitioners and

others, until due process of law is followed in respect of the disputed ownership rights over the properties;

e) Pass such further and other orders as the nature and circumstances of the case may require.

2. Exhibit A (Annexure P-1) is a judgment of the Division Bench of the Bombay High Court dated 25.07.2024 passed in Writ Petition No.833 of 2019.

The Special Leave Petition preferred against the said judgment of the Bombay High Court has been dismissed by this Court vide order dated

20.12.2024 passed in Special Leave Petition (C) D No.59459 of 2024 (Annexure P-2). The Interlocutory Application No.15861 of 2024 seeking

modification of the judgment dated 25th July, 2024 was dismissed by an order dated 17th December, 2024 by a Division Bench of the Bombay High

Court (Annexure P-3).

3. In our considered opinion, under Article 32 of the Constitution, the judgment of the Division Bench of the High Court of Judicature at Bombay

cannot be declared as illegal. If the petitioners have not been heard and are affected by the said judgment, the remedy available to them is to either file

a petition/application for recall of the said order/judgment or to challenge the same by way of a petition under Article 136 of the Constitution before

this Court.

4. The Writ Petition is, accordingly, dismissed, leaving it open for the petitioners to avail such other remedy as may be available under law.

5. Pending application(s), if any, shall stand disposed of.