

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**APPELLATE SIDE CIVIL JURISDICTION****WRIT PETITION NO. 10884 OF 2014**

Shri Suresh Kevalchand Vora

.....Petitioner.

Vs.

1 The State of Maharashtra and 4 ors.

....Respondents.

Mr. S. R. Nargolkar i/by Ms. Meenakshi Sakhare for the Petitioner.

Mrs. M. S. Bane, AGP for the Respondents-State.

**CORAM : SMT. VASANTI A. NAIK AND
C.V. BHADANG, JJ.**

DATE : 07.01.2015

PC.:-

By this Petition, the Petitioner seeks a direction to the Respondent-State of Maharashtra, to return the land of the Petitioner that was acquired by the Respondents in furtherance of the Notification issued under Section 4 of the Land Acquisition Act, 1894 in the year 2002.

According to the Petitioner, the Respondents were not justified in acquiring the land of the Petitioner, thereby rendering the Petitioner landless. It is the case of the Petitioner that though the lands of certain land holders who had a political clout in the area were deleted from the acquisition proceedings, the land of the Petitioner was not deleted. It is

stated that though the land was acquired for the purpose of extension of Gaothan, a part of it is used for the municipal hospital and a part of the same is not used for any purpose. It is stated that in this background, the Award passed by the Sub Divisional Officer on 11.05.2004 is liable to be set aside and the acquisition proceedings are liable to be quashed. The learned counsel for the Petitioner has relied on the unreported judgments of the Hon'ble Supreme Court in M/s. Royal Orchid Hotels Limited v. G. Jayarama Reddy in Civil Appeal No.7588 of 2005 and in Karnataka State Tourism Development Corporation v. G. Jayarama Reddy in Civil Appeal No.7589 of 2005 dated 29th September 2011.

The Writ Petition is liable to be dismissed on the ground of laches. The Section 4 Notification was issued in 2002 and the Award was passed by the Special Land Acquisition Officer in the year 2004. The Petitioner has filed the instant Petition on 27.08.2014. There is an inordinate delay in filing the Petition. The Award is passed nearly 10 year earlier and a part of the land is used for the municipal hospital. In this background, the prayer made by the Petitioner cannot be granted specially when the Municipal hospital is standing on a part of the acquired land. It is well settled that a land holder is not entitled to the restoration of the acquired land merely because the same is not used for the purpose for which it was acquired. At this stage, it would not proper for this Court to entertain the writ petition and consider granting the relief sought by the Petitioner. The judgment of

the Hon'ble Supreme Court dated 29th September 2011 in Civil Appeal Nos. 7588 of 2005 and 7589 of 2005 cannot be made applicable to the facts of the present case. In the case before the Hon'ble Supreme Court, the High Court had found that the delay in filing the writ petition was satisfactorily explained and the Court was of the clear view that the State Government had acquired the land by circumventing the provisions of Part VII of the Land Acquisition Act. In the case before the Hon'ble Supreme Court, the land was first acquired by the State Government and then the same was transferred to private parties. Such is not the case here. Even as per the say of the Petitioner, a part of the land is being used for the municipal hospital.

It would be necessary to refer to the judgment of the Hon'ble Supreme Court reported in Municipal Council, Ahmednagar v. Shah Hyder Beig, (2000) 2 SCC 48 to deny the relief to the Petitioner.

In view of the aforesaid, the writ petition is dismissed with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)