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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1265 OF 2013

Ramchandra Narayan More Patil and Ors.

..Petitioners.

V/s.

The State of Maharashtra and Ors.

..Respondents.

Mr.Abhijit Bapusaheb Kadam for the petitioners.

Mr.V.S.Gokhale, AGP for respondent Nos.1 to 3.

Mr.Vijay D.Patil for respondent No.4.

**CORAM : A.S.OKA AND
V.L.ACHLIYA, JJ.**

DATED : 28TH SEPTEMBER, 2015

P.C. :-

1. Heard the learned counsel for the petitioners. According to the case of the petitioners, their predecessors were owners of the land, subject matter of this petition. The land was acquired for the public purpose of Ujjani Right Bank Canal, Distributory No.18. Thereafter, there were two further acquisitions.

2. In the petition it is disclosed that an award in respect of the acquired land was made under section 11 of the Land Acquisition Act, 1894 (for short 'the said Act') on 8th October, 1987 and the possession of the acquired land was also taken over.

3. It is pointed out in the petition that a part of the land which was acquired was not used for the purpose for which it was acquired. It appears that the petitioners made an application for

return of the acquired land which was allegedly not put to use for any public purpose. Reliance is placed on the Resolution passed by the Maharashtra Krishna Valley Development Corporation on 28th September, 2011 by which it was resolved to transfer an area of 1.75 H. out of the land bearing Gat No.39/2 and 39/1 at village Tondle Bondle, Taluka Malshiram, District Solapur to the District Collector, Solapur subject to making payment at the Government rate to the said Corporation.

4. The learned counsel appearing for the petitioner invited our attention to the impugned communication dated 22nd October, 2012 issued by the Collector of Solapur to petitioner No.1B. It is stated that the application made by the said petitioner on 6th August, 2012 for return of the land acquired for godown has been rejected on the ground that a demand for the said land has come from a Hon'ble Minister.

5. The learned counsel appearing for the petitioners submitted that admittedly the land acquired for godown was agreed to be transferred to the Collector on the ground that the same was not used for the purpose of the godown. His submission is that instead of considering the application made by the petitioners for return of the acquired land on merits, now the proposal seems to be allot the said land to the Hon'ble Minister.

6. We have considered the submissions. The law on this aspect is clear. If after vesting of the acquired land in the State, the original owners are not entitled to return or restoration of the acquired land on the ground that the same has not been used for the public purpose for which it was acquired. The acquired land vesting in the State can be obviously used for any other public purpose.

7. If the acquired land is not needed for any public purpose, the same can be disposed of only in accordance with the provisions of the Maharashtra Land Revenue Code, 1966 and the Land Disposal Rules framed thereunder. It is equally well settled that the land vesting in the State can be allotted to any private party only by following a fair and transparent procedure. Without following such a procedure, the acquired land cannot be allotted even to the Hon'ble Minister.

8. The prayer in this petition is under Article 226 of the Constitution of India for issuing a writ of mandamus directing the respondents to return the acquired land to the petitioners. Such a prayer cannot be granted.

9. Subject to what is held above in paragraph 7, the petition is rejected.

(V.L.ACHLIYA, J.)

(A.S.OKA. J.)

C E R T I F I C A T E

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