

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

WRIT PETITION NO.2119 OF 2014

Maruti Sakharam Shewale
(Since deceased through legal heirs) ...Petitioners.
V/s.
The Collector, Kolhapur & Ors. ...Respondents.

Mr. Uday Bhagwanrao Nighot for the Petitioner.
Mr. V. S. Gokhale, AGP for Respondent Nos.1 to 5.

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

DATE : 8th SEPTEMBER, 2015

P.C.:

. Heard the learned counsel for the petitioners.

2. The petitioners have challenged the order dated 31/1/2014 passed by the Divisional Commissioner on an application made by them under section 48(1) of the Land Acquisition Act, 1984. Considering the total holding of the petitioners, the land admeasuring 27 R out of Gat No.348/A(part), Kadgaon Taluka Gandhigalaj, District Kolhapur was acquired by the State Government for rehabilitation of project affected persons of Ambeohol medium project. The application under section 48(1) was rejected by an impugned order.

3. The contention of the learned counsel for the petitioners is that the predecessor of the petitioners purchased an area of 40.5 R out of Gat No.286/1 before the relevant date. By a Sale Deed dated 16th October, 1995, their predecessor has sold the said land. Learned counsel for the petitioners invited our attention to the Sale Deed dated 29th February,

1995 by which an area of 40.2 Acres out of Gat No.286/1 was purchased by the predecessor of the petitioners. He urged that the petitioners were never holding an area of 53.8 Acres of Gat No.286/1. He pointed out that area of 40.2 Acres was sold by the predecessor of the petitioners. He submits that even if the area of Gat No.286/1 is taken as 53 R, the area of the acquired land will be less than 20 R and, therefore, in view of the Government Circular dated 28/10/1997, the acquisition cannot be made.

4. We have considered the submissions. Perused the Extract of Form 8A showing holding of the petitioners. The said Extract dated 11/5/1999 shows that total holding of the petitioners of the land bearing Gat No.286/1 was 53 R. We find that area of 40.2 Acres sold by the petitioners out of the total holding of 53 R has already been deducted. The petitioners or their predecessor never challenged the Extract of Form 8A dated 11/5/1999 which shows that total area of Gat No.286/1 held by them was 53 R. Therefore there is no reason to interfere with the impugned order which proceeds on the footing that the area of Gat No.286/1 held by the petitioners was 53 Acres out of which an area of 40 Acres was sold. The extract of Form 8A as of 11th May, 1999 in the name of Maruti, the predecessor of the petitioners shows that total holding of Maruti out of Gat No.286/1 was 53 Acres. After deducting the area sold, while calculating total holding of 1 H 94.5 Acres, area of Gat No.286/1 is taken as 12.5 Acres. After deducting pad (fallow) land, the total holding has been taken as 1 H 88.5 R. By applying slab of 1 H 61 A, the area of 27 R has been acquired out of Gat No.348-A. There is no illegality. Accordingly, the petition is rejected.

(V. L. ACHLIYA, J.)

(A. S. OKA, J.)

CERTIFICATE

“ Certified to be true and correct copy of the original signed
Judgment/Order.”