

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4819 OF 2013

Mubarak Rajubhai alias Jafar Mulani (Inamdar)	...Petitioner
<i>Versus</i>	
The State of Maharashtra & Ors.	...Respondents

Mr. Praveen K. Hushing for the Petitioner.
Mr. V. S. Gokhale, AGP for the Respondent Nos. 1 to 5.

CORAM: A. S. OKA & G.S. PATEL, JJ.
DATED: 8th December 2015

PC:-

1. Heard the learned counsel appearing for the Petitioner and the learned AGP appearing for the Respondent Nos. 1 to 5.

2. The first prayer in this Petition under Article 226 of the Constitution of India is for issuing a Writ of Mandamus directing the State Government to pass an appropriate order withdrawing from acquisition under Section 48 of the Land Acquisition Act, 1948. The land subject matter of the acquisition is more particularly described in paragraph 3 of this Petition. Award dated 15th July 1982 has been made in respect of the said land. The acquisition was for the purposes of setting up residential quarters and training ground for S.R.P.F. Group V and VII Daund, District Pune. The Petition was amended by contending that the possession of the acquired land was not taken over under the provisions of the Land Acquisition Act, 1894 and the compensation amount was not paid

to the Petitioner. Reliance was placed on Sub-Section 2 of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the said Act of 2013). There are various prayers made in the alternative. However, the learned counsel appearing for the Petitioner is mainly pressing into service. Sub-Section 2 of Section 24 of the said Act of 2013. His first submission is that the land which is the subject matter of acquisition was earlier requisitioned under the Bombay Land Acquisition Act, 1948 and, therefore, at no stage, the possession of the acquired land was taken over under the provisions of Section 16 of the said Act of 1894. His second submission is that compensation on account of acquisition was neither paid to the owner nor deposited in the Court, before which a reference under Section 18 of the said Act of 1894 was maintainable.

3. There is a reply filed by Mr. Sahebrao Manik Gaikwad, Deputy Collector (Land Acquisition) No.19, Pune. In the Reply, a contention has been raised that the possession of the acquired land was taken over in accordance with Section 16 of the said Act of 1894. In the reply, reliance is placed on the possession receipt, which bears signatures of the owners of the acquired lands. In the reply, further contention raised is that the compensation of Rs. 33,048.40/- was paid by cheque to Mubarak Rajubhai Inamdar and Shashadbi Rajubhai Inamdar. The Petitioner, as stated in paragraph 2 of the Petition, is the son of Rajubhai.

4. We have considered the submissions made across the bar. We have perused the possession receipt (Annexure “I” to the Affidavit

of Mr. Sahebrao Manik Gaikwad). The Affidavit records that possession of the acquired land was already with SRPF Group V and VII and the said possession has been confirmed. Though the possession receipt is signed by the several owners, Mr. Mubarak Rajubhai Inamdar is shown as absent. Several other owners whose lands were acquired along with the said land of the Petitioner have signed the possession receipt. Hence, there is no reason to disbelieve the document. We have perused the extract of the expenditure register annexed to the said Affidavit. As stated earlier, it shows that the compensation amount has been paid by a cheque to the said Rajubhai. Hence, both the ingredients of Sub-Section 2 of Section 24 of the the Act of 2013 are not satisfied.

5. There is another prayer made in the alternative for handing over possession of the acquired land to the Petitioner on accepting consideration from the Petitioner.

6. Once the acquired land is vested in the State under Section 16 of the said Act of 1894, it can always be used for any other public purpose. Even if the State does not want this land for the public purpose, the same is required to be disposed of in accordance with the Land Disposal Rules framed under the Maharashtra Land Revenue Code, 1966. Therefore, the prayer for return of the land is not accepted.

7. There is no merit in the Petition and the same is rejected.

(G. S. PATEL, J.)

(A. S. OKA, J.)