

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1282 OF 2002

Dr.Sudhanva Upendra Wadgaonkar & Ors. ... Petitioners

Vs.

The Collector of Pune & anr. ... Respondents

Ms.Aparna Dhawle i/b Smt.Anjali Helekar for the Petitioners
Mr.Vikas Mali, Assistant Government Pleader, for Respondent Nos.1 & 2

**CORAM: MRS.VASANTI A. NAIK &
MRS.MRIDULA BHATKAR, JJ.**

DATE: 9th MARCH, 2015

ORAL JUDGMENT (Per MRS.VASANTI NAIK, J.):

By this Petition, the petitioner seeks a direction to the respondents to restore the land of the petitioner, acquired by the State Government for the benefit of the State Reserve Police Force (SRPF) in the year 1973.

The land of the petitioner was acquired by the State Government under the provisions of the Land Acquisition Act, 1894 for the benefit of the SRPF. In this Writ Petition filed in the year 2002, it is the case of the petitioner that the respondents have not utilised the land for the benefit of the SRPF and the land is being granted to third parties for cultivation. It is stated that a private school is also being run on the land in question. It is

stated that the land of the petitioner ought to have been utilised by the government for the SRPF and if not, the same needs to be restored to the petitioner. In any case, according to the petitioner, the State Government is liable to auction the land so that the petitioner can participate in the auction and purchase the land.

Mr.Mali, the learned Assistant Government Pleader, appearing on behalf of the State Government, states that as soon as the land was acquired by the State Government, the stood vested in the State Government. It is stated that the State Government is the owner of the land after its acquisition in the year 1973 and the petitioner is not entitled to seek the restoration of the land in view of the law laid down by the honourable Supreme Court in the judgement reported in **AIR 1997 SC 2703 (*State of Kerala Vs. Bhaskaran Pillai*)**, which is followed by this High Court in several writ petitions and reiterated by the Supreme Court in several other matters. It is specifically denied by the State Government that a private school is being run on the acquired land. It is asserted that the school on the acquired land imparts education to the children of the SRPF staff and personnel.

On hearing the learned Counsel for the parties and on a perusal of the provisions of the Land Acquisition Act, it appears that the relief sought

by the petitioner cannot be granted as after the acquisition of the land in the year 1973, the same vested in the State Government in accordance with the provisions of the Land Acquisition Act. Merely because the land was not utilised for the purpose for which it was acquired, the same cannot be returned to the owner. The honourable Supreme Court has held in the judgment reported in **AIR 1997 SC 2703 (*State of Kerala Vs. Bhaskaran Pillai*)** that the land once acquired and vesting in the State Government cannot be restored to the landholder merely because the same is not used or utilised for the purpose for which it was acquired. In the instant case, the petitioner has not challenged the acquisition of the land. The land has been acquired in the year 1973 and the Writ Petition is filed in the year 2002. In view of the settled position of law, the petitioner cannot seek restoration of the land. So also, the petitioner cannot seek a direction to the State Government to sell or allot the land by public auction. It would be for the State Government to decide how the land should be utilised after it vests in the State Government. It also cannot be said in the facts of the case that the State Government has played fraud by not utilising the land for which it was acquired in the year 1973. The petition also suffers from laches. The land was acquired in 1973 and the petition has been filed in the year 2002. The petitioner cannot seek a direction to the State Government either to restore the land to the petitioner or to auction the

land so that the petitioner could participate in the auction. Such a direction to the State Government would not be legally sustainable. The judgment in the case of *M/s. Royal Orchid Hotels Ltd & Anr vs G. Jayarama Reddy & Ors.*, (2011) 10 SCC 608 cannot be made applicable to the case in hand, as it cannot be said that the acquisition in this case is found to be fraudulent.

Since there is no merit in the Writ Petition, the petition fails and is dismissed with no order as to costs.

(MRIDULA BHATKAR, J.)

(VASANTI A. NAIK, J.)