

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

907 WRIT PETITION NO. 11952 OF 2015

SHAIKH FAKIRMOHAMAD BUDHANBHAI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. P. B. Shirsath
AGP for Respondents 1 to 5: Mr. B. V. Virdhe
Advocate for Respondents 6 and 7 : Mr. S. T. Shelke

**CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.**

DATE : 18th October, 2016

ORDER:

1. Mr. Shirsath, the learned counsel for the petitioner, states that the writ land of the petitioner has not been acquired under any award, still the name of the Government is mutated in the revenue record. According to the learned counsel, as the land is not acquired, the petitioner remains owner of the said property. The learned counsel further submits that only on the basis of record prepared by the Superintendent of Land Record i.e. Kamijast Patrak, in mutation register, name of the petitioner is deleted.

2. Mr. Virdhe, the learned AGP submits that in fact a proposal was forwarded by the acquiring body to the State with regard to the acquired land of the

petitioner, however, subsequently, no award came to be passed in respect of the land of the petitioner. On the basis of Kamijast patrak, mutation has taken place, thereby deleting name of the petitioner.

3. Mr. Shelke, the learned counsel for respondents 6 and 7 submits on instructions that the writ land has not been acquired.

4. It is trite that a person cannot be deprived of his land except in accordance with due procedure as established by the law. It is not disputed that at no material point of time, the writ land of the petitioner bearing Gat No. 78 situated at village Ghogargaon, Tq. Shrgonda has been acquired. The said land still remains of the ownership of the petitioner. In absence of any document suggesting the land having been acquired by the Government, it was improper to mutate the name of the Government in the revenue record.

5. The respondents do have right to initiate acquisition proceeding in accordance with the provisions of law, however, without resorting to the same, could not have mutated the name of the Government. In light of that the respondent No. 3 shall

take steps to delete the name of the State Government from the ownership column in the revenue record in respect of Gat No. 78 owned by the petitioner, situated at Ghogargaon, Taluka Shrigonda, expeditiously.

6. Writ petition is accordingly disposed of. No costs.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC