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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2124 OF 2014

Shri. Shankar Rau Patil (deceased) and Ors.

... Petitioners

Versus

The Collector, Kolhapur and Ors.

... Respondents

Mr. Uday B. Nighot for the Petitioners.

Mr. A.I. Patel, AGP for the Respondent Nos.1 to 5.

CORAM : A.S. OKA &
C.V. BHADANG, JJ.

DATE : 9th FEBRUARY, 2016

PC.

1 Heard the learned counsel appearing for the Petitioners. The challenge is to the order dated 31st January, 2014 passed by the Divisional Commissioner on an application made by the Petitioners under Sub-Section (1) of Section 48 of the Land Acquisition Act, 1894.

2 The lands held by the Petitioners were acquired under the Land Acquisition Act, 1894. Award was made under Section 11 of the said Act on 21st January, 2013. The acquisition was for rehabilitation of the Project Affected Persons of Ambehol Project. A notification under Sub-Section (1) of Section 11 of the Maharashtra Project Affected Persons Rehabilitation Act, 1986 was issued 31st July, 2000 which is the

cut off date. The slab was fixed of 4 Acres (1 H 61 Ares).

3 There were four contentions raised by the Petitioners. The first contention raised before the Divisional Commissioner was that the entire area of Gat No.646 admeasuring 9.5 Ares was occupied by houses and wells and the remaining land was pad (pallow) land. The second contention was that the land bearing Gat No.647/3 admeasuring 30 Ares was occupied by two houses, cattle shed and gobar gas plant and area of 1 Are thereof is a pad (fallow) land. It is contended that in Gat Nos.647/2 and 647/4, the Petitioners are having their houses and bore well. Relying upon the Sale Deed in respect of the land bearing Gat No.899/2 admeasuring 96 Ares, it is submitted the Sale Deed itself shows that area of 4 Ares is covered by road.

4 The learned counsel appearing for the Petitioners invited our attention to the Sale Deed which is annexed to the Petition. He also invited our attention to the document on page 55 which is the 7/12 extract in respect of the land bearing City Survey No.1324. However, it shows entry of houses and bore well is only for the year 2013-2014. He also invited our attention to the extracts of assessment register of the houses. The said extracts do not bear any particular survey number or city survey number. It cannot be concluded firstly that the houses were

on the acquired lands and secondly that the same were in existence on or before 31st July, 2000.

5 As far as the existence of road is concerned, the Sale Deed between the private parties cannot prove the existence of road as on the cut-off date. As far as the land bearing Gat No.646(P) and 647/3 (P) are concerned, an area of 6 Ares is already excluded by taking into consideration the fact that the same is a pad (fallow) land.

6 We find that on facts, each and every contention raised by the Petitioners has been considered by the Divisional Commissioner. After having considered the documents produced by the Petitioners along with the Petition, we are unable to find any fault with the finding of fact recorded by the Revenue Commissioner. Hence, there is no merit in the Petition and the same is accordingly rejected.

(C.V. BHADANG, J)

(A.S. OKA, J)