

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1210 OF 2014

Shri Annappa Kalappa Magdum. ... Petitioner.
V/s.
The Department of Forest and Revenue through
Chief Secretary (Rehabilitation) and others. ... Respondents.

Kuldeep U. Nikam for the petitioner.
Mrs.M.P.Thakur, AGP for respondent Nos.1 to 5.
PD.Dalvi for the applicant in CAW 201/2015

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

DATED : 5th February 2016.

PC. :

Heard the learned counsel for the petitioner. The petitioner is claiming to be the owner of the lands bearing Gat No.646 and Gat No.220 of village- Chinchwad, Taluka- Karveer, District- Kolhapur. The petitioner has come out with the case that the State Government took a decision on 5th October 1989 to delete village- Chinchwad, Taluka- Karveer, District- Kolhapur from the acquisition. The grievance is that on the basis of the letter dated 31st August 2000 submitted by the Collector, the decision taken on 5th October 1989 was illegally reviewed by the State Government.

2. In the year 2010, the petitioner addressed a letter to the Deputy Secretary (Rehabilitation), Revenue and Forest Department of the

State of Maharashtra requesting the Deputy Secretary to pass an order of entering his name in the revenue records on the ground of the decision taken on 5th October 1989. Thereafter, there was a correspondence between the various officers of the State. On 30th June 2012, the Collector passed an order rejecting the application made by the petitioner. The petitioner was informed that village Chinchwad was not deleted from the benefited zone of Doodh Ganga Project and, therefore, the request for deletion from acquisition cannot be considered. The submission of the learned counsel appearing for the petitioner is that the letter dated 5th October 1989 addressed by the Revenue and Forest Department to the District Collector, Kolhapur implies that the acquisition will have to be necessarily cancelled. He submitted that the said decision was withdrawn as indicated by the letter dated 21st June 2001 issued by the Desk Officer, Revenue and Forest Department to the District Resettlement Officer, Kolhapur. He submitted that in substance, the decision taken on 5th October 1989 of withdrawal of acquisition could not have been reviewed or recalled as there was no power to do so. He submitted that in any event, the same could not have been reviewed or recalled without recording any reasons.

3. We have given careful consideration to the submissions canvassed. We have perused an award dated 24th November 1988 passed under the Land Acquisition Act, 1894. The petitioner's land was acquired for the public purpose of resettlement of the project affected persons of the Doodh Ganga Irrigation Project. The petitioner never challenged the acquisition. We have carefully perused the letter dated 5th October 1989 addressed by the Revenue and Forest Department to the District Collector. It records that the State Government has taken the decision to delete

village Chinchwad from the benefited zone of Doodh Ganga Project. This communication has nothing to do with the acquisition. In fact, the draft notification prepared by the Collector on the basis of the said letter was for deleting the said village Chinchwad from the benefited zone. However, the Collector by letter dated 31st August 2000 expressed several difficulties in doing so and that is the reason on 21st June 2001 the State Government recalled its decision dated 5th October 1999.

4. Firstly, the petitioner has erroneously proceeded on the footing that there was a decision taken by the State Government to withdraw village- Chinchwad from the acquisition. Such a decision was required to be gazetted. The decision of the State Government on which reliance is placed is in fact a decision of deleting village- Chinchwad from the benefited zone of the Doodh Ganga Project. The award dated 24th November 1988 and, consequently, the acquisition proceedings have attained finality. On the basis of the award, the name of the petitioner has been deleted from the revenue records.

5. As there was never a decision taken by the State Government to withdraw from the acquisition, we find no merit in this petition. Accordingly, the petition is rejected.

6. In view of rejection of the petition, the Civil Application No.201/2015 does not survive and stands disposed of accordingly.

(C.V. BHADANG, J)

(A.S.OKA, J)