

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5735 OF 2015

Shri Rajaram Shamrao Chavan & Ors. .. Petitioners
V/s
State of Maharashtra & Ors. .. Respondents

Mr. M.S. Lagu for the petitioners.
Mr. Nitin Deshpande, AGP for the respondent State.

**CORAM: DR. MANJULA CHELLUR, CJ. &
M.S. SONAK, J.**

DATE : 19th SEPTEMBER 2016

P.C.:

This writ petition is filed challenging the acquisition proceedings in respect of lands bearing S.No. 79 admeasuring 0.43 Ares and S.No. 97 admeasuring 0.43 Ares in terms of Notification dated 25th March 2010 under reference to Government Notification No.SR/507/09.

2. In brief the facts leading to filing of the writ petition are as under:

In terms of the above Notification, the above lands were acquired for the purpose of Ambe Ohol Project. In terms of section 4(1) of the Land Acquisition Act ("the Act" for short), objections were called for to be submitted on or before 16th April 2010 and,

according to the writ petitioners, the said notice was addressed to one Shamrao Joma Chavan, who expired way back on 29th December 2007. Further contended that since the required notice under section 4(1) of the Act calling for objections was served to the dead person, the acquisition proceedings lapsed.

3. It is also contended that prior to the death of said Shamrao Joma Chavan, there was a partition effected between the family members reduced to writing on 17th June 2000 which was by way of registered document in the office of Sub-Registrar at Ajra. Ever since the said partition took place in the family, each person under the partition document are separately cultivating their respective shares and even a civil suit being Civil Suit No.47 of 2009 is pending for division of property in S.No.79.

4. All these facts were brought to the notice of the concerned authorities, but in spite of the same notices were published in terms of section 9(3) and (4) of the Act. According to the petitioners, the entire proceedings pertaining to land acquisition, so far as the lands in question are concerned, lapse for the reasons mentioned above.

5. Per contra, the learned A.G.P raised objection so far as the delay and laches on the part of the petitioners to bring the above facts to the notice of the concerned authorities.

6. We have considered the respect contentions raised before us. So far as notice being sent to a deceased person is concerned, there is no obligation or procedure contemplated under the Act that before undertaking the initiation of proceedings for acquisition of lands, one must ascertain whether the owner is dead or not. The Act provides for publication of notice declaring its intention to acquire such lands so that the persons interested or claiming interest in the lands in question can raise their objections. It is not obligatory on the part of the authorities to verify whether the persons, whose names are shown as *pattadars* (owners or persons interested in the lands in question), are alive or not. As a matter of fact, the legal representatives, the persons who succeed to the interest of the estate of the deceased, have an obligation to effect mutation in the revenue records so as to declare to the entire world who has interest in the property. In the absence of such exercise being done by the so-called legal representatives or successors of the interest of the deceased person, it is too late in the day for the petitioners to complain the action of the respondent authorities undertaken in 2010. The deceased Shamrao died in the year 2007 and his name continued in the revenue records even on the date of notification issued under section 4(1) of the Act.

7. Similarly, the contention of the writ petitioners that an obligation lies on the authorities to verify from the Registering

Authority whether any encumbrance is created so far as the lands proposed to be acquired, we are of the opinion that the persons who acquire interest by virtue of partition or otherwise are expected to approach the revenue authorities to mutate their names in the revenue records indicating their interest in the property as on the date of proposed acquisition. Similarly, such exercise was not undertaken by the parties to the partition document. Even otherwise, the averments in the writ petition indicate that the authorities have published Notification under section 9(3) and (4) of the Act inviting the petitioners to be present and submit their objections, if any. In that view of the matter, if the objections now raised in the writ petition were to have any effect or impact on the acquisition proceedings and if they have to be considered in accordance with the procedure contemplated, the same need to be considered for the purpose of distributing the compensation amount amongst the claimants. So far as the contentions raised now, we are of the opinion that the petitioners cannot seek quashing of the acquisition proceedings for the aforesaid reasons. Accordingly the writ petition is dismissed.

(M.S. SONAK, J.)

(CHIEF JUSTICE)