

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 8082 OF 2017

Smt. Shantabai Punjaram Kadam
& another

Petitioners

Versus

The State of Maharashtra
& others

Respondents

Mr. C.K. Shinde, advocate for petitioners.
Mr. S.B. Joshi, AGP for respondents 1 to 3.

**CORAM : DR. MANJULA CHELLUR, CJ. AND
R.M.BORDE, J.**

DATE : 30th June, 2017.

P.C. :

1. Apparently, the land of petitioners admeasuring 68 R seems to have been acquired for the beneficiary i.e. respondent no. 4 CIDCO. Based on the letter at page no. 43 of the petition, stated to have been written by respondent no. 4 CIDCO that they are not in the requirement of the land of petitioners, petitioners are before this Court contending that the very purpose for which the land was acquired was not genuine and further that, the land is not at all required for the purpose declared at the time of acquisition. Apparently, possession of the land has already been taken away from petitioners and, petitioners have even received compensation amount. According to petitioners, they must get back their land in terms of Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013.

2. Apparently, the land was reserved and acquired for public purpose under the master town plan. The land was acquired under the Maharashtra Regional and Town Planning Act, 1966 alongwith the Land Acquisition Act, 1894. Since possession of the land has already been taken over, even in worst situation of applying Land Acquisition Act, even section 48 of the Act cannot be applied. It is well settled that the acquiring authority cannot be compelled or the acquiring authority has no obligation to return the land acquired even if the project/scheme or the purpose for which the land came to be acquired does not exist since the said land can be utilised for any other public purpose. It is also made clear under the Maharashtra Land Revenue Code that different categories of persons are entitled for allotment of land as landless persons. The State can always divert the usage of the acquired land for any other public purpose. When once the land vests with the State, we are of the opinion that there is no statutory/vested right in the petitioner to seek possession of the land in question.

3. In these circumstances, we cannot issue any writ of mandamus directing the acquiring body to return the land to petitioners. Petition is dismissed.

R.M.BORDE, J.
JUDGE

CHIEF JUSTICE

dyb