

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 130 OF 2014
with
Civil Application No.3043 of 2016

Shri. Kaluram Vitthal Sorate, Through Power
Of Attorney Holder, Shri. Nitin Kaluram
Sorate And Ors. ...Petitioners

Versus

The Divisional Commissioner, Pune
Division, Pune And Ors. ...Respondents

Mr.Manoj Patil with Mrs.Suman Lengare, for the Petitioners.

Mr.P.P.Kakade, AGP for the State – Respondents 1 to 6.

Mr.Sandeep Phatak i/b. Mr.S.B.Deshmukh, for Respondent Nos.7A
& 7B.

Mr.Gaurav Potnis with Ms.Pallavi Potnis, for Respondent No.8.

CORAM : **DR. MANJULA CHELLUR, C. J., &
G.S.KULKARNI, J.**

DATE : **FEBRUARY 27, 2017**

P. C.

1. A portion of the land in question seems to have been sold, and purchased by the Petitioners prior to acquisition and another portion of the land seems to have been purchased after

the acquisition and award under Section 11 of the Land Acquisition Act, 1894. It is also not in dispute that the original owner still has some land with her in the said survey number, after the sale made in favour of the petitioners or third parties. The dispute seems to be, out of the survey number in question which portion of the land was intended to be acquired by the Land Acquisition Officer. According to the petitioners, since the sale deed executed in his favour conveying the property with absolute right by the original owner clearly indicates the boundaries, therefore, it has to be presumed that the land in question intended to be acquired must be from the balance land of the seller i.e. respondent No.7. We cannot totally agree with the said argument of the petitioners' Counsel since the acquisition of the land under the Land Acquisition Act commences much prior to the notification under Section 4(1) of the Land Acquisition Act, 1894. Before Section 4(1) notification, there has to be identification of the land with boundaries and also mapping of those lands which have to be acquired and whether the lands to be acquired are contiguous to one another in order to provide support facilities to the project in question. This requires verification of material with the Land Acquisition Officer including the records containing the proposal for acquisition of land, portions of land if it is to be out of larger extent of land. Therefore, application dated 7 November 2013 raising all these objections by the petitioners that the land sold to him was never intended to be purchased, has to be considered by the concerned

authority, after giving an opportunity of hearing not only to the petitioners but also to respondent No.7 from whom the petitioners have purchased the land. It is needless to say that the project affected persons to whom the land is already allotted, may also appear and submit their submissions before the concerned authority. The concerns of interested must be heard.

2. Respondent-Divisional Commissioner is directed to dispose of application dated 7 November 2013 within a period of eight weeks from today, in the light of above observations.

3. All contentions of the parties are kept open.

4. Parties are directed to maintain status quo till the respondent-authority -Divisional Commissioner decides the controversy.

5. Writ Petition is accordingly disposed of.

6. As the Writ Petition itself is disposed of, pending Civil Application does not survive, it is accordingly disposed of.

(G.S.KULKARNI, J.)

(CHIEF JUSTICE)