

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1249 OF 2017

Ramakant Hari Patil and others.	...	Petitioners.
V/s.		
The Deputy Collector (Land Acquisition)		
Alibaug, Dist- Raigad and others.	...	Respondents.

Sachin Pawar for the petitioners.
PG.Sawant, AGP for the State.

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

DATE : 30th January 2017.

PC. :

When this Bench raised doubt about the maintainability of the petition as well as delay and laches on the part of the petitioners to approach the Court, learned counsel appearing for the petitioners kept on submitting that the very acquisition proceedings are not in conformity with the procedure contemplated in law and, therefore, the petitioners are entitled to the reliefs sought.

2. The petitioners have sought the following reliefs in this writ petition:

“a) That this Hon'ble Court be pleased to declare that, the Suit Lands mentioned in this Petition

at (Exhibit B) are not subject matter of any acquisition proceedings. And further be pleased to declare that, the State Government has no authority and/ or Title and/ or Interest to assign/ deal with the Suit lands (Exhibit-B) which are subject matter of this Petition, in any manner.

- b) That this Hon'ble Court be pleased to issue the Writ of Mandamus thereby directing the Respondent No.1 to investigate and report to this Hon'ble Court about the misuse of the powers by the Respondent No.2 to 5 in dealing with the records of the subject properties at Exh.B.
- c) That pending the hearing and disposal of the present Writ Petition this Hon'ble Court be pleased to restrain the Respondents No.1 to 6 from dealing with the subject properties at Exh.B
- d) That pending the hearing and disposal of the present Writ Petition this Hon'ble Court be pleased to direct the Respondent No.1 to investigate and report to this Hon'ble Court about the misuse of the powers by the Respondent No.2 to 5 in dealing with the records of the subject properties at Exh.B.
- e) Ad-interim relief in terms of prayer clause d and e above may be kindly granted.”

3. When we look at the prayers, it virtually seems to be the prayers which are normally sought in the suit for declaration and

consequential benefits. However, when we look to the facts of the present case, initially the problem seems to have arisen on account of some inconsistency which is said to have occurred in the mutation entries. Apparently, the petitioners are claiming rights of Dharma Raghu Patil who is said to have acquired tenancy rights so far as land in question is concerned. The fourth petitioner, alleged to be one of the legal heirs of deceased Dharma Raghu Patil, has already filed suit being Regular Civil Suit No.91/2014 before the Joint Civil Judge, Senior Division, Alibaug and the said suit is still pending. Meanwhile, there seems to be some process wherein agreements seem to be executed by way of deed of indenture on 29th October 2015 between the Government of Maharashtra and the beneficiaries. The petitioners contend that so far as land being Survey No.121/2, it is shown as acquired for the construction of bridge/ Khopoli state road, however, till date the same has not been utilized for the purpose for which it was acquired. It is further contended that the seventh respondent had issued notification in the year 1971 for acquisition of land for construction of bridge over Alibaug-Pen-Khopoli state road but the said properties, which are declared as acquired, are still under the peaceful possession and agricultural use of the petitioners.

4. Though the name of Dharma Raghu Patil is mentioned in respect of Survey No.121/2, the annexure annexed to this writ petition refers to different survey numbers in which different persons alleged to be having an interest. Since the fourth petitioner,

who is one of the legal heirs of the alleged tenant, has combined the so-called reasons before the Civil Court which seems to have granted an order of injunction in his favour, the petitioners have filed this writ petition. The main grievance seems to be that in the notification said to have been published under section 6(1) of the Act of 2013, the numbers are not shown. In the entire writ petition, the petitioners refer to Survey No.121/2 but during the course of argument, learned counsel for the petitioners submits that there are other petitioners who claim interest in other survey numbers. The contention of the petitioners that other survey numbers are also not shown in section 6(1) notification is not at all pleaded in the writ petition. Even the numbers are not referred to.

5. Be that as it may, the fact remains that section 6(1) notification itself was issued in the year 1951 and much prior to that section 4(1) notification must have been issued. Learned counsel for the petitioners is not even submitting whether the so-called lands in which the petitioners alleged to have some interest were notified under section 4(1) of the said Act. If section 6(1) notification itself was issued in the year 1951, we fail to understand how the petitioners approached this Court in the year 2017 by filing this petition.

6. The averments indicate that now the project is at the verge of completion of construction of bridge over the road and the petitioners are before this Court. We are not in a position to

understand if the award is already passed in respect of all the lands under survey No.121(1), they ought not to have suppressed all the details in the averments. Finally, the notification under section 6(1) issued in the year 1951 is being challenged now. Without going into the details in respect of each survey number, whether there was an award or not and who were heard etc., what we feel is, the petition seems to be a commercial venture with ulterior motive. The delay and laches are not at all explained. Even if the suit was filed by one of the parties, who alleges to have interest in the land, that too in the year 2014, we fail to understand, for the last two years, what the other persons in respect of other survey numbers, who are said to have similar interest, were doing.

7. In these circumstances, for the reasons mentioned above, we can only opine that it is nothing but a speculative litigation which has to be condemned. Accordingly, the petition is dismissed with costs quantified at Rs.1 lakh to be deposited with the Maharashtra State Legal Services Authority within a period of four weeks from today, failing which, the same shall be recorded in the revenue records following due procedure.

(G.S.KULKARNI, J.)

CHIEF JUSTICE