

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1644 OF 2014

Sarjerao Baburao Naikawadi and others. ... Petitioners.
V/s.
The District Collector, Kolhapur and others. ... Respondents.

Akshay Shinde for the petitioners.
Mrs.M.P.Thakur, AGP for respondent Nos.1 to 3, 6 and 7.
Anand Patil for respondent Nos.4 and 5.

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

DATE : 8th March 2017.

PC. :

Heard learned counsel for the petitioners as well as learned AGP for respondent Nos.1 to 3, 6 and 7.

2. We have perused the order dated 8th February 2017. We have also perused the affidavit-in-reply filed by Mr.Shailesh Sharad Suryawanshi, Deputy Collector (Resettlement), Kolhapur. In paragraph-1 of the said affidavit, the deponent says that he is filing the affidavit on behalf of respondent No.2 i.e. Deputy Collector, Project Resettlement (Land), Kolhapur. In verification paragraph he

says that he is filing this affidavit on behalf of respondent Nos.3, 4 and 6. The person who affirms this affidavit do not even know what he is saying. However, learned AGP is only interested in bringing to our notice paragraph- 3 of the affidavit since it affects the person/officer personally.

3. Admittedly, two lands of the petitioners i.e. Gat No.1286 admeasuring 81 Ares and Gat No.885 admeasuring 40 Ares situated in village Kasba Sangav, taluka- Kagal, district- Kolhapur came to the possession of the respondent authorities way back in 1991 and were allotted to the project affected persons i.e. the party respondent Nos.4 and 5. Till date, no proceedings for acquisition of land whatsoever are initiated. Way back in 1991, the petitioners are deprived of making use of almost 3 acres of land. Since no acquisition was initiated, we are of the opinion that there is total callous approach on the part of the respondent authorities. They have totally ignored the purpose and intention why Article 300A was introduced in the Constitution after removing right to property as fundamental right of the citizen. That apart, in July 2014, the respondent authorities were directed to file reply. However, till we imposed costs on each of respondent Nos.1 to 3 and 6 vide order dated 8th February 2017, they have not bothered to file affidavit-in-reply. As on today, admittedly, no acquisition proceedings are initiated but the lands of the petitioners bearing aforesaid Gat

numbers have already been taken away from them depriving them of livelihood from these lands right from 1991 onwards.

4. If acquisition is initiated afresh, the calculation of the compensation amount would be by taking into account the market value as of now and the determination would be prospective. But, for the loss sustained by the petitioners for last several 26 years right from 1991, the petitioners have to be compensated as well apart from determination of compensation so far as lands which are going to be acquired by initiation of fresh acquisition proceedings now. Since the loss caused to the petitioners, right from the year 1991 till the respondent authorities declare their intention to acquire these lands, has also to be compensated while determining the compensation for acquisition of lands in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the petitioners shall place on record relevant documents indicating how much they could have earned from these three acres of land in the last 26 years. The acquisition of lands can be by consent i.e. agreement and we make it clear that at the time of such agreement the petitioners would be entitled to compensation for the loss caused to them right from 1991 till the date of declaration.

5. We direct the respondent authorities to initiate acquisition proceedings in respect of the aforesaid lands and to determine the compensation so far as acquisition of lands and also for the loss caused to the petitioners for several years from 1991 onwards. The above exercise has to be completed within three months from today.

6. With the aforesaid directions, writ petition is disposed of.

7. So far as payment of costs imposed vide order dated 8th February 2017 is concerned, we extend two weeks time from today for payment of the same, failing which, the same shall not only be recovered as arrears of land revenue but also the contempt proceedings will be initiated.

(G.S.KULKARNI, J.)

CHIEF JUSTICE