

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1768 OF 2016

Shri Krishna Babu Patil & Ors. .. Petitioners
V/s
The Collector, Kolhapur & Ors. .. Respondents

Mr. Uday Nighot for the petitioners.
Mr. P.G. Sawant, AGP for the State.

**CORAM: DR. MANJULA CHELLUR, CJ. &
N.M. JAMDAR, J.**

DATE : 26th JULY 2017

P.C.:

The petitioners are before this Court challenging the acquisition proceedings in respect of the land in Gat No. 148A admeasuring 1 Hectares 11 Ares and Gat No.148B admeasuring 6 Hectares 41 Ares totally admeasuring 7 Hectares 52 Ares at Village Karambali, Taluka Gadhinglaj, District Kolhapur.

2. The petitioners contend that their names were seen in the revenue records so far as cultivation column and when they received notice, they submitted the detailed objections. However, the same was not considered, therefore they seek quashing of the land acquisition proceedings.

3. Apparently from the reply affidavit filed by respondent nos.1, 2, 4 and 5, it is noticed that the present petitioners were only cultivators of land and the land belongs to Devasthan which was run by a Trust, who is respondent no.6.

4. Learned counsel for the petitioners contends that the land cultivated by the petitioners was much below the required measurement, therefore it ought not to have been acquired. It is also noticed that though they offered to purchase the land under the Bombay Tenancy Agricultural Lands Act, there was no further procedure adopted to take such offer to its logical end fructifying into proper conveyance document. In the absence of such material, one cannot hold that the petitioners were owners of the land and cultivating the same as on the date of notification under section 4(1) of the Land Acquisition Act, 1894 [“the Act” for short]. At the most, they were interested persons who ought to be heard and inquired under section 5A of the Act in order to determine the compensation. If they were not the owner of the land as on the date of completion of acquisition proceedings, the extent of the land held by the owner of the land alone has to be taken into consideration and not the persons who are interested in the said land as cultivator, in order to fix the slab. Therefore, the consideration of the objections raised by the petitioners to the extent of the land, as observed at page 37, according to us, would suffice the purpose indicated by the petitioners. If the petitioners are entitled for any compensation, they

have to approach the concerned Land Acquisition Officer with an application for disbursement of money and if there is any conflict of interest, then the matter has to be referred to Civil Court in accordance with the procedure contemplated. So far as challenge to the acquisition as a cultivator who offered to purchase the land, but such offer never resulted in a conveyance document, we are of the opinion that the petition is not sustainable.

5. Accordingly the writ petition is dismissed for the reasons mentioned above.

(N.M. JAMDAR, J.)

CHIEF JUSTICE