

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 2561 OF 2013

Ganpat Baburao Murkute And Ors. ...Petitioners

Versus

The State Of Maharashtra, Through Secretary,
Revenue And Forest Dept And Ors ...Respondents

*Ms.P.S.Talekar with Mr.Vinod Sangvikar & Mr.Arvind Aswain i/b.
Mr.J.G.Reddy, for the Petitioners.*

*Mr.Sandeep Phatak i/b. Mr.S.B.Deshmukh, for Respondent Nos.5 to
34.*

Mrs.M.P. Thakur, AGP for the State.

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

DATE : FEBRUARY 27, 2017

P. C.

1. The Petitioners are before this Court challenging the show cause notice issued by the Respondent-Collector calling upon the Petitioners to appear at 11 a.m. on 26 September 2012. Being aggrieved by the same, the petitioners are before this Court for obtaining an order of stay.

2. The petitioners' claim in the writ petition is to stay the inquiry by the Collector including the jurisdiction of the Collector

to issue the alleged show cause notice. According to the Petitioners, Petitioner Nos.1, 2 and 9 had purchased the land with the permission of the Collector, Pune from Petitioner Nos.3 to 8 who are the project affected persons. Now a show cause notice is given to all the Petitioners when the mutation issue was kept before the Revenue Authority that is before the Collector. Now the only issue that is to be considered is, having granted permission for sale of the land by the projected affected persons in favour of Petitioner Nos.1, 2 and 9, can the Revenue Authorities raise objection with regard to change of mutation. The project affected persons can acquire right, title and interest in the property in question, if the land which is allotted to them was properly allotted after due process of acquisition. If there is no due process of acquisition and if there is direction with the intervention of the Court to change the mutation, the same has to be brought to the notice of the Collector. If the transactions or the conveyance in respect of the land in question is done in accordance with the procedure which can have sanctity or legality, the same has to be brought to the notice of the Collector who has issued the alleged notice. Though the learned Counsel

for the Petitioners submits that already hearing is concluded way back in the year 2012, we are of the opinion that the Authorities which heard the matter may not be the Collector after five years in the year 2017. Therefore, since the proceedings are pending before the Collector concerned, the Petitioners may once again address the arguments on all aspects including the issue of maintainability or the jurisdiction of the Authority which issued the show cause notice. The same shall be heard afresh and be disposed of strictly in accordance with the procedure contemplated, within a period of eight weeks from today.

3. If any adverse order is passed against the interest of the Petitioners, the same shall not be implemented for another period of eight weeks so as to accommodate the Petitioners to challenge the same before proper forum.

4. With these observations, the petition is disposed of. All contentions of the parties are kept open.

(G.S.KULKARNI, J.)

(CHIEF JUSTICE)