

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9672 OF 2013

Ramdas Bajirao Deshmukh & Ors. .. Petitioners
V/s
The Divisional Commissioner, Pune & Ors. .. Respondents

Mr. Manoj Patil i/b Mrs. Suman Lengare for the petitioners.
Mrs. M.P. Thakur, AGP for the State.
Mr. Nikhil Mallelwar i/b Mr. Sachin Pawar for respondent no.8.
Mr. R.M. Haridas i/b Mr. Sumit Khaire for respondent nos. 9A, 10, 12, 13, 22 and 25.

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

DATE : 13th FEBRUARY 2017

P.C.:

The petitioners are before this Court challenging the acquisition of their portion of land in old Gat No.1295 (new Gat No.218) measuring 2 hectares 2 ares out of 4 hectares 44 ares of land belonging to their family. Apparently, much prior to the so-called acquisition notification under section 4(1) and 6(1) of the Land Acquisition Act, 1894, there was a partition in the family of the petitioners by which the petitioners' family got 50% share in the abovesaid plot number and the other sharer got the balance 50% of the land.

2. Apparently, there was completion of land acquisition proceedings and possession of the land was taken somewhere in the year 2013, i.e. much prior to coming into force of Right to Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 on 1st January 2014. It is not in dispute that compensation was also paid in respect of portion acquired by the respondent authorities.

3. So far as the portion of land fallen to the other sharer of the family, it seems it was not the subject matter of acquisition. However, the other sharer, who was more fortunate than the present petitioners, could deal with his property and as on today the property is changed from hand to hand by several sale deeds. Some of the purchasers are before us. The petitioners, who have kept quiet without agitating at the relevant point of time, way back in 1971, why their portion of land alone came to be acquired without touching the balance land fallen to the share of other family members, are before us. According to us, there cannot be a challenge on the ground that even the other family should lose some land. Since it is for the authorities to acquire the land which is beneficial for the purpose for which it was acquired. In their wisdom if the authorities had chosen to acquire a particular land, i.e. land of the petitioners alone, now after 46 years they cannot question the wisdom of the authorities in acquiring only their portion of land. That apart, having kept quiet without challenging the acquisition

itself in the year 1971, if any grounds were available to them to challenge such acquisition, now on the above grounds they are before us. We are afraid, such litigation cannot be entertained after 46 years since the petitioners have participated in the acquisition proceedings and were very well aware of the same from 1971 onwards and they are unhappy of the fortune of other sharer now.

4. Under these circumstances, even if the petitioners intend to pursue only the representation before the 1st respondent, according to us, if any decision is taken by the 1st respondent favouring the petitioners, it would unnecessarily open up the pandora box after 46 years disturbing the settled position as on today. Unless the acquisition of land fallen to the share of the petitioners is challenged on technical ground within a reasonable time from the date of acquisition, we are afraid we cannot entertain such challenge at this belated stage.

5. With these observations, the writ petition is disposed of.

(G.S. KULKARNI, J.)

CHIEF JUSTICE