

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9575 OF 2015

Late Girjabai Balu Revale (Since Deceased)	]	
through Legal Heir Shri Namdeo Balu Revale	]	
& Ors.	]	... Petitioners

Versus

The State of Maharashtra, Through the	]	
Additional Chief Secretary & Ors.	]	... Respondents

Mr. Prashant Bhavake for Petitioners.

Mrs. S. S. Bhende, AGP for State - Respondent Nos.1 to 4.

Mr. B. G. Tangsali i/b Ms. Prabha Badadare for Respondent Nos.5 to 9.

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

DATE :- 13 APRIL 2017

P. C. :-

1. After the matter was heard for some time with regard to the prayers in the Writ Petition, we are of the opinion before conclusion of proceedings before the Collector concerned, the petitioners are before this Court contending that there should not be cancellation of allotment of land to them as project affected persons. The party respondents are the original owners of the land which is said to have been allotted to the petitioners. On the grievance of the

respondents - owners of the land that the measurement of the land acquired was not correct with reference to the slab applicable, a portion of the land came to be deleted from acquisition by virtue of an order under Section 48 (1) of the Land Acquisition Act, 1894 dated 16/11/2004. The so called 'allotment' also was somewhere in 2004, according to the petitioners.

2. The petitioners had gone for mutation entries somewhere in 2005. They further contend that the possession of land was given somewhere in 2015. They also contend that after handing over possession of the land, mutation entries were entered in the name of the petitioners. At that point of time, in June 2015, they received notice from respondent no.4 to remain present for hearing on 23/06/2015 in chambers of respondent no.4. According to them, only on 23/06/2015 they realized that the party respondents had sought for deletion of lands and the consequence is cancellation of allotment of lands in favour of the petitioners. Challenging the said proceedings initiated by the Collector, the petitioners are before this Court.

3. Apparently, the order of the Collector under Section 48 (1) of the Land Acquisition Act is not under challenge. The claim of the petitioners is after allotment of lands in their favour as project affected persons, possession of the same was handed over in 2015 and mutation entries effected in their name but a notice was received for proposed cancellation of allotment.

4. As project affected persons, whether the petitioners could have better right, title and interest against the interest of the owners of the land whose lands were acquired for the purpose of disbursement to the project affected persons. If a person loses land for the purpose of larger public interest, no doubt he is entitled for allotment of land or compensation, as the case may be, depending upon the provisions applicable. Whether the allottee can insist upon allotment of a particular land, is the issue raised before us. However, we are of the opinion since the proceedings before the Collector are not allowed to be completed because of pendency of this Writ Petition, neither the right of the petitioners are decided not the respondents'. In that view of the matter, we are of the opinion petitioners must take proceedings pending before the Collector to its logical end. Thereafter if they are aggrieved and if they have any legal right vested in them, they are liberty to approach this Court.

5. With these observations, the present petition is disposed of without expressing any opinion on merits but only on the ground that it is premature for making any positive opinion by us.

6. Interim order, if any, stands vacated.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)