

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 983 OF 2016

Dinesh Dharmdas Patel.	...	Petitioner.
V/s.		
State of Maharashtra and others.	...	Respondents.

Atul Damle, Senior Advocate with Prakash Shah and Durgaprasad Poojary i/b. PDS Legal for the petitioner.

PP.Kakade, AGP for the State.

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

DATE : 20th February 2017.

PC. :

The petitioner before us is the purchaser of the land in question from one Haresh Ballaney who had purchased the said land from the original owner whose name is shown in the acquisition notification. The acquisition in question pertains to the year 1966 and the award came to be passed in 1966 itself. Mr.Ballaney, as stated above, is said to have purchased the said land in the year 1990 from the original owner. Subsequent to the passing of the award, if Mr.Ballaney has purchased the land, what right, title and interest he

secured from the said conveyance that alone can be passed on to the present petitioner who claims to have purchased the said land from Mr.Ballaney by a subsequent conveyance document. Whether Mr.Ballaney secures any absolute right, title and interest over the property cannot be looked into in the petition filed under Article 226 of the Constitution of India. Such rights can be established before a different forum. If at all the purchasers had any interest in the property along with the original owners, they ought to have gone before the Land Acquisition Officer who would have apportioned the compensation under section 30 of the Land Acquisition Act. However, in the reply affidavit of the State, it is stated that the original owner has already taken the compensation amount which fact is disputed by the present petitioner. The petitioner cannot possibly know what happened before he purchased the said land i.e. before 2008 since those sellers are not before us. As already stated, once an award is passed, whether Mr.Ballaney got any perfect right, title and interest in the property has to be seen, especially in the light of contention of the State that compensation has already been paid to the original owner.

2. Now, according to the petitioner, the possession of the land is with the petitioner which is disputed by the State Government by contending that on a small portion of the acquired land an illegal and unauthorized construction is put up. If,

affording to the petitioner, the 7/12 extract continued the name of the original owner which mislead the subsequent purchaser, we are afraid, the remedy is elsewhere and not this Court under Article 226 of the Constitution.

3. It is needless to state that if the petitioner has any right which he can establish before any other forum, none of the observations made hereinabove would come in the way of the petitioner.

4. With the aforesaid observation, the writ petition is disposed of.

(G.S.KULKARNI, J.)

CHIEF JUSTICE