

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 355 OF 2016

Shri. Arun Balaram Mali

...Petitioner

*Versus*The State Of Maharashtra Through Its
Principal Secretary And Ors.

...Respondents

*Mr.Dhananjayrao D.Rananaware, for the Petitioner.**Ms.Neha Bhide, 'B' Panel Counsel, for the State-Respondents 1 to 4.*

**CORAM : DR. MANJULA CHELLUR, C. J., &
G.S.KULKARNI, J.****DATE : APRIL 26, 2017**

P. C.

1. Petitioner who claims to be the owner of the land which was acquired for a public purpose namely for construction of monument in the memory of Freedom Fighter Shree Vasudev Balwant Phadake, is before us seeking a relief that the respondents be directed to rectify and delete the entry of monument from the revenue record of the land bearing Survey No.192/B situated at Village Shirdon, Taluka Panvel, District Raigad which was subject matter of the acquisition.

2. The case of the petitioner is that the part of the land which was subject matter of the acquisition was utilized for the purpose of constructing the monument in question, and that the petitioner continues to be in possession of the balance land. According to the petitioner, the land admeasuring 23 R has been utilised for monument

and the balance land from the total acquisition, is still in possession of the petitioner.

3. Considering the prayers as made in the Writ Petition, we are afraid that these reliefs cannot be granted in the Writ Petition under Article 226 of the Constitution of India. The petitioner asserts that he is in possession of part of the land and the same is required to be withdrawn from the acquisition. The only remedy available to the petitioner is to approach the State Government by making an application for deletion/withdrawal of the land from acquisition under the provisions of the Land Acquisition Act, 1894, if same are applicable, or under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. We, therefore, consider it appropriate to dispose of this petition by permitting the petitioner to make an application to the State Government seeking withdrawal of the part of the land from acquisition as permissible in law. Such application be filed by the petitioner within a period of six weeks from today, and if so filed, be decided by the State Government in accordance with law.

4. The State Government shall decide the application as early as possible preferably within a period of six weeks from submission of the application.

5. Writ Petition is disposed of in the above terms. No costs.

(G.S.KULKARNI, J.)

(CHIEF JUSTICE)