

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12378 OF 2015

Nilofer Majid Khan and others. ... Petitioners.
V/s.
The State of Maharashtra and others. ... Respondents.

PM.Arjunwadkar for the petitioners.
Mrs.M.P.Thakuar, AGP for the State.

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

DATE : 21st March 2017.

P.C. :

All the four petitioners are before us contending that they had purchased certain portions of land under different sale-deeds in Gat No.228/B from one Shri Damodar Laxman Shete. These pieces of land purchased by the petitioners seem to be out of larger extent of land held by the respective owners. Apparently, all the purchases are subsequent to issuance of notification under section 4(1) of the Land Acquisition Act, 1894.

2. According to the petitioners, certain lands are allotted to the project affected persons in Gat No.228/B. Since the allottees are claiming that the land allotted to them falls within the property purchased by the petitioners, the petitioners are before this Court. The petitioners also contend that the portions of land purchased by them are not the part of the land acquired.

3. Apparently, an injunction suit being Regular Civil Suit No.114/2005 was filed by the petitioners which seems to have been decreed in their favour. There is no demarcation of the petitioners' lands, which are part of greater portion of the land and which are purchased after issuance of section 4(1) notification. Unless and until there is demarcation of the lands of the petitioners/purchasers, one would not know whether the portions of lands purchased by these petitioners fall within the lands acquired or not. In the absence of such identity, we fail to understand how these petitioners are before this Court contending that the lands purchased by them must be declared as free from acquisition. One has to see whether the lands could have been purchased by the petitioners after acquisition notification under section 4(1) of the Land Acquisition Act and whether there is possibility of demarcation of the lands purchased by the petitioners from the original owner whose name is shown in section 4(1) notification. If there is boundary dispute, it has to be sorted out before the Civil Court or if there is no

demarcation of lands of the petitioners which are purchased after issuance of section 4(1) notification, the petitioners have to approach the concerned survey department seeking demarcation of the portions of land purchased by them so as to identify whether their portions of land are also acquired or not. Since all these disputed facts cannot be ascertained and sorted out in a writ petition filed under Article 226 of the Constitution, we decline to grant any relief to the petitioners.

4. Accordingly, the writ petition is disposed of without expressing any opinion so far as rights of the petitioners.

(G.S.KULKARNI, J.)

CHIEF JUSTICE