

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10973 OF 2015

Pratibha Gopal Gowande,	]	
Through her Power of Attorney holder	]	
Mr. Shreekant Gopal Gowande.	]	... Petitioner

Versus

State of Maharashtra & Ors.	]	... Respondents
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Mr. Aniket Ransubhe i/b Mr. Ajay Basutkar for Petitioner.
 Mr. P. G. Sawant, AGP for State.
 Mr. G. S. Hegde for Respondent No.4.

CORAM :- DR. MANJULA CHELLUR, C.J., &
G. S. KULKARNI, J.
DATE :- JANUARY 30, 2017

P. C. :-

1. Heard both the sides.
2. Petitioner claims to have purchased a land admeasuring 6 Ares from Survey No.3/1 situate at Dehugaon, Taluka - Haveli, District - Pune, somewhere in 1971.
3. On 23 January 1971, the petitioner applied to the Grampanchayat, Dehu, for permission for constructing a hospital and such permission came to be granted to the petitioner on 12 May 1971.

We do not know whether this permission was granted to the petitioner after mutating her name in the concerned record as owner of the property or whether the Grampanchayat was the appropriate authority for not only mutating the name of the purchaser in the records but also to grant permission for constructing a hospital. Meanwhile on 16 September 1971, a notification under Section 4(1) of the Land Acquisition Act, 1894 ('the Act') came to be issued in respect of acquisition of land in Survey No.3/1 admeasuring 0.72 Hectares of land which is said to be including the land purchased by the petitioner. We are not aware whether the District Collector, Pune, was the acquiring authority, however, on 6 June 1971, the petitioner wrote a letter to the District Collector, Pune, intimating the purchase made by her and also her intention to construct a hospital and requested for deleting the said land from the acquisition. Apparently in 1973, she received an intimation that the said letter was forwarded to the Special Land Acquisition Officer (5), Pune, for consideration. On 7 March 1973, a letter was addressed to the beneficiary of the acquisition i.e. respondent no.4, intimating the purchase made by her. In June 1973, the beneficiary replied the letter of the petitioner rejecting the request for deleting the said land from acquisition. Till 3 August 1981, the petitioner did not proceed with the matter challenging rejection of deletion of the land from acquisition.

4. On 3rd August 1981, the petitioner filed an application under Section 30 of the Act contending that the Award has been passed in the year 1972 but notice of the said proceeding was not

given to the petitioner, as required under Section 12 of the Act. According to the petitioner, in 1972, Award came to be passed and only in 1981 she filed application under Section 30 of the Act. During the course of submissions, learned Counsel for petitioner submits that the application of the petitioner under Section 30 of the Act is not disposed of till date. However, on the other hand, it is seen that money payable towards the compensation for acquisition of the land is already paid to the original owner and still the application filed under Section 30 of the Act, according to the petitioner, is pending. Whether the money is paid to the owner prior to 1981 or not, is also not disclosed.

5. If the petitioner was aware of the acquisition notice in the year 1971 itself and had addressed a letter, she should have approached the Court for proper relief at the relevant time. This, apparently, has not been done. On the other hand, she comes with this petition for deletion of land from acquisition on the ground of lapse of acquisition proceedings after coming into force of new Act with effect from 1 January 2014.

6. If money is already paid to the owner of the land whose name was found in the acquisition proceedings, it cannot be treated as non-payment of compensation in terms of Section 24 (2) of the 2014 Act. So far as possession, there is no dispute that possession is already taken over from the petitioner. The only ground now seems to be the land in question is a surplus land and the purpose for which the land

was acquired is already accomplished, therefore, the petitioner is entitled for return of this land under the new Act. Apparently, the petitioner has not approached the concerned authorities under Section 48 of the Act. She has also not approached the concerned authorities under the new Act as well, till date, except the ground of surplus land. If she is entitled for deletion or de-notification of this land from acquisition under the new Act, she must approach the concerned authorities with such prayer in her representation. We are of the opinion that it is too pre-mature to hold that there is likelihood of rejecting her representation at this stage. In case an application on the ground of surplus is made, the beneficiary has to be heard before deciding such representation.

7. The Writ Petition is disposed of in the aforesaid terms.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)