

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.1602 of 2015**

Nirabai Parshuram Koli & Ors .. Petitioners
V/s
The City & Industrial Development
Corporation Maharashtra & Anr .. Respondents

...

Mr.Ashutosh Gole, Advocate for the petitioners.
Mr.P.G. Shinde, AGP for the State.

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

DATED: 31st JANUARY, 2017

P.C.:-

1 The petitioners who claim to be the descendants of deceased Joma Gavrya Koli, have approached this Court seeking benefits of a Government Resolution issued in the year 1990 whereby the persons whose lands were affected by the land acquisition for the New Bombay project, subject to fulfillment of the conditions as stated in the scheme, were granted plots of land. The scheme was popularly known as “the 12.5% Scheme”.

2 There is no dispute that the acquisition of lands pertains to the year 1970. There is also no dispute that the owners of the lands were paid compensation. The petitioners claim to be

having other interest mainly of a tenancy in the lands which were subjected to acquisition. We do not know.

3 The contention as raised in the present petition is that the petitioners have become entitled to the benefits of the 1990, '12.5% scheme' of the State Government as they are persons interested in the lands which were acquired. On this background, the petitioners have filed this Petition making the following prayers.

(a) That writ of mandamus, for a writ in the nature of mandamus or any other appropriate writ, direction or order be issued and the Respondents be directed to give the benefits of 12.5% land as per the GR dated 6/3/1990 in respect of the lands mentioned in paragraph 3 of the present petition.

(b) That writ of mandamus, for a writ in the nature of mandamus or any other appropriate writ, direction or order be issued and the Respondents be directed to conduct enquiry in the matter of illegal grant of benefits in respect of the acquisition of the lands mentioned in paragraph 3 of the present petition to persons not concerned with the said lands and take action against the said persons and the concerned officers of the Respondents in accordance with law.

(c) That writ of mandamus, for a writ in the nature of mandamus or any other appropriate writ, direction or order be issued and the Respondents be directed to decide the application dated 20/11/2013 and 25/03/2014 made by the petitioners to the respondents within such time as this Hon'ble Court directs and after giving opportunity of hearing to the Petitioners.

(d) That writ of mandamus, for a writ in the nature of mandamus or any other appropriate writ, direction or order be issued and the Respondents be directed to forthwith furnish to the petitioners the documents and information as demanded in letter/application dated 01/07/2014 annexed at Exhibit "L" to the present petition.

(e) Pending hearing and final disposal of the present petition Respondents be directed to conduct enquiry in the matter of illegal grant of benefits in respect of the acquisition of the lands mentioned in paragraph 3 of the present petition to persons not concerned with the said lands and take action against the said persons and the concerned officers of the Respondents in accordance with law.

(f) Pending hearing and final disposal of the present petition Respondents be directed to decide the application dated 20/11/2013 and 25/03/2014 made by the petitioners to the respondents within such time as this Honourable Court directs and after giving opportunity of hearing to the Petitioners.

(g) Pending hearing and final disposal of the present petition Respondents be directed to forthwith furnish to the Petitioners the documents and information as demanded in letter/application dated 01.07.2014 annexed at Exhibit "L" to the present petition.

(h) Ad-interim relief in terms of prayer clauses (e), (f) and (g) be granted.

4 The petitioners contend that they have approached respondent- CIDCO by an application for allotment of 12.5% land, as also the petitioners were called upon by the CIDCO to submit certain documents, which according to the petitioners, were submitted in respect of one of the lands. As seen from the prayers,

the petitioners have claimed 12.5% plots as a matter of legal right under the said scheme.

5 We are not impressed with the contention as urged by the petitioners. Petitioners having approached the CIDCO after a lapse of almost 24 years seeking benefit of the 12.5% Scheme itself shows that the petitioners, if at all had any legal rights, they were not diligent and/or were sleeping over their legal rights. Even the response of CIDCO that the petitioners should submit certain documents would not avail to the benefits of the petitioners. This is for the reason that the land acquisition process was completed in the year 1970 as also the compensation came to be awarded to the owners of the very land in which the petitioners claim to have an interest.

6 Thus, there is no dispute with regard to the acquisition proceedings. The contention is only on the subsequent Government Resolution/policy of 1990. At the time when the acquisition proceedings were complete, such scheme of 12.5% was not in vogue, which has come subsequently in the year 1990 i.e. about 20 years, after the acquisition proceedings had attained finality. We cannot permit persons like the petitioners to approach the Court as and when they desire to seek such reliefs. In this proceeding, we also cannot verify a locus/entitlement of the petitioners who make such a claim. We need not undertake the enquiry as to the eligibility and entitlement of the petitioners as being urged by the petitioners in the several paragraphs of the Writ Petition.

7 Petitioner relied upon a decision of this Court in the case of **M/s.Sunny Buildtech Pvt.Ltd Vs. State of Maharashtra, 2016 SCC Online Bom 4957 (Writ Petition No.1241 of 2015)**. We have perused the said decision. The facts are completely different. This decision would thus not assist the petitioners in this matter.

8 In the circumstances, we are of the clear opinion that this petition would fail on the principles of delay and laches. Petitioners have asserted the legal rights after almost 24 years. There is no justification whatsoever, nothing has been shown as to why the petitioners could not approach the appropriate authorities claiming benefit of this scheme, if the same was available to them, at the appropriate time. This petition has also been filed by a Power of Attorney holder. The prayers as made in the petition as noted by us above, therefore, clearly cannot be granted in exercise of our jurisdiction under Article 226 of the Constitution of India,

9 For the above reasons, petition fails and is accordingly dismissed. No costs.

(G.S.KULKARNI, J)

(CHIEF JUSTICE)