

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1338 OF 2014

Mr.Yashwant Keshav Dolas and others. ... Petitioners.
V/s.
The Dist. Collector, Pune and others. ... Respondents.

Dr.Suresh Mane for the petitioners.

M.P.Thakur, AGP for the State.

Y.R.Mishra with D.P.Singh for respondent Nos.2 and 4.

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

DATE : 13th February 2017.

P.C. :

The petitioners, who claim to be the descendants of the persons who were interested in the land which came to be acquired in the years 1925 to 1948, are before us in this petition seeking the following reliefs:

“(a) That this Hon'ble Court be pleased to issue a Rule.

(b) That this Hon'ble Court be pleased to issue a Writ of Mandamus/Certiorari or an appropriate writ, order, direction to the respondents to hand over

the possession of vacant land to the petitioners and accordingly for the necessary changes in the land record.

- (c) That this Hon'ble Court be pleased to issue a writ or an appropriate order, direction to respondents to pay an amount of compensation to all the petitioners and extend all other benefits available under "Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013".
- (d) That this Hon'ble Court be pleased to issue a writ of certiorari calling for the record in relation to the acquisition of Mahar Watan Land from the District Collector, Pune.
- (e) That this Hon'ble Court be pleased to issue a writ or an appropriate order, direction to respondents to restrain from sale/ transferring the subject land or from creating any third party right, title or interest in respect of the subject land.
- (f) Since the Petitioners have been deprived for their right to life and livelihood as guaranteed under Article 21 of the Constitution of India for more than 65 years, pending and final disposal of petition, by way of ad-interim relief, the District Collector, Pune and other concern authorities may be directed to pay the one third amount of compensation immediately, under Section 41 (6) of the new legislation, "Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013", for the reason that the petitioners are the members of the Scheduled Caste Community.

- (g) The Honourable Court may be please to issue a writ, order or the direction to the Respondent No.1 to make the consent Award for the said acquisition of the land.
- (h) The Honourable Court may be please to issue a writ, order or the direction to the Respondent no.1 to initiate the process for an Award, payment of Compensation and return of the vacant land to the Petitioners.
- (i) Pending and final disposal of this writ petition, ad-interim relief in terms of prayer clauses (e, f and h) be granted;
- (j) Since the Petitioners are the members of the Scheduled Caste Community and have suffered a lot, for cost of the Petition;”

2. The respondents have not filed reply-affidavit to the present petition. However, considering the nature of the issues as raised in this petition, we feel that no reply would be necessary to hear this petition for admission.

3. We have, accordingly, heard Dr.Suresh Mane for the petitioners, Mr.Mishra for the Union of India and Mrs.Thakur, learned AGP for the State.

4. The lands in question which were acquired in the years 1925 to 1948 are stated by the petitioners to be 'Mahar Watan' lands which were acquired by the then British Government under the

Land Acquisition Act, 1894. The lands were acquired for setting up a Central Military Engineering College at Dapodi, Pune and Dighi Wireless Telegram Company. It appears from the averments as made in the petition that from 1925 to 1948 the acquisition proceedings were completed. It is the case of the petitioners that in the year 1951 a representation came to be made seeking compensation and thereafter several representations came to be made, last of such representation being dated 5th November 2013 made to the Divisional Commissioner, Pune. The case of the petitioners is that none of these representations were considered by the authorities. The petitioners contend that since the new Act, namely, "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013", has come into force, the petitioners would be entitled to the above reliefs.

5. Considering the above case of the petitioners, we are quite certain that the prayers of the petitioners cannot be granted. There cannot be a dispute that the claim of the petitioners is an inordinately stale claim, inasmuch as the same is in relation to the acquisition proceedings which took place from the years 1925 to 1948. Surprisingly, the case of the petitioners is that their ancestors have not received any compensation. The acquisition proceedings were completed almost more than 80 to 90 years back. It is difficult to believe that those persons, who were interested in the acquisition proceedings, were not paid compensation under the Land Acquisition Act. As also, it is difficult to believe that they did not

assert their legal rights since the year 1951 which is the year first representation was made. Further nothing prevented the ancestors of the petitioners or any other persons who were interested in the lands, to approach the Court at an appropriate time. Even if they did not assert their legal rights since 1951, we surely cannot help them today in the year 2017. The real intent of the petitioners seems to be to convert this petition into some kind of enquiry by inviting the respondents to file their reply on such a stale claim, in an attempt to create some plea. The petitioners cannot expect the respondents to respond to this petition when the cause of action itself arose between the years 1925 to 1948. This surely cannot be permitted as it would amount to abuse of the process of law. The petitioners cannot be permitted to allege breach of any legal right which, according to the petitioners, came to be infringed about 80 to 90 years back. Considering these facts, we would have no hesitation to observe that the petition is hopelessly barred by delay and laches. In any event, it would be preposterous for us to undertake an enquiry in these proceedings to ascertain the contentions of the petitioners and their authenticity.

6. In view of the above discussion, we are unable to exercise our writ jurisdiction under Article 226 of the Constitution of India. The writ petition is patently misconceived and is, accordingly, rejected. No costs.