

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.222 OF 2014

Shri Mohan Jinnu Magdum & Anr.] ... Petitioners

Versus

The State of Maharashtra,]
Through Revenue & Forest Dept. & Ors.] ... Respondents

Mr. U. B. Nighot for Petitioners.

Mrs. M. P. Thakur, AGP for Respondent Nos.1 to 3.

Mr. P. D. Dalvi for Respondent Nos.4 to 6.

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

DATE :- FEBRUARY 13, 2017

P. C. :-

1. The petitioners are before this Court claiming to be the owners of land in Gat Nos.544/1, 544/2 and 544/3 in Village - Rangoli, Taluka - Hatkanangale, District - Kolhapur. According to them, their predecessor-in-title had purchased an area of 2H 78R out of Gat No.544/3 by a registered Sale Deed dated 16/06/2002 and out of the said 2 H 78 R, the petitioners have purchased 1 H 16 R by a registered Sale Deed dated 29/11/2006.

2. Be that as it may, the fact remains that Gat No.544/3 was subject-matter of acquisition. We also notice from record that one Shri Sudhakar Ravaji Patil, Deputy Superintendent of Land Records

has filed an affidavit-in-reply expressing his inability to identify the land of the petitioners since the boundaries mentioned in the Sale Deed refers to measurement of land admeasuring 7H 90R whereas his claim is that the petitioners purchased 1H 16R.

3. The fact remains that certain land in this Gat number was acquired way back in 1983, proceedings for which culminated into an award in the year 1986. It is also admitted by the petitioners that the land purchased by them is a portion of larger extent of land. Now, the question is whether the land purchased by them was the subject-matter of land acquisition or not and if it was the subject-matter of land acquisition proceedings, being a subsequent purchaser of land subsequent to acquisition of land resulted in an award, what would be the entitlement of the petitioners. If they are able to establish that the land purchased by them was not the subject-matter of acquisition, then they will not be affected. Since the Superintendent of Land Records himself is confused with the material placed on record by the petitioners, this is a case where identification of the property is an issue. We are afraid that such exercise cannot be undertaken in a petition filed under Article 226 of the Constitution of India. Therefore, we decline to intervene and express any opinion in the matter. The petition is disposed of by opining that we are not entertaining the matter since the factual disputes have to be adjudicated upon by leading evidence with regard to the identity of the property vis-a-vis the property said to have been purchased by the petitioners in 2008.

4. On 23/07/2015, the *status quo* order was continued till further orders. Thereafter in the subsequent orders, there is no extension of interim order. This would mean there is no status quo order operating till date. Since we decline to entertain the writ petition for want of factual particulars, we continue the *status quo* order from today for a period of six weeks within which the petitioners shall approach the proper forum seeking proper relief, including interim relief.

5. All contentions of all parties are kept open.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)