

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

998 WRIT PETITION NO. 1584 OF 2018

**DAMAN RANGNATH PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr.D.S.Mali
AGP for Respondents - State : Mr.S.S.Dande
Advocate for Respondent No.3 : Mr.M.V.Kini
Advocate for Respondent Nos.4, 6 to 12 :
Mr.H.I.Pathan, Mr.P.P.Dama

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**CORAM : R.M.BORDE AND
K.K.SONAWANE, JJ.**

DATE: 27th April, 2018

ORDER:-

1. The petitioner is praying for issuance of directions to the Competent Authority i.e. Deputy Collector, Land Acquisition, Manjra Project Osmanabad, to refer the dispute in respect of apportionment of compensation to the Civil Court.

2. The petitioner claims that he is real brother of respondent No.4 and is the owner of land at Gut Nos.54 and 61 situate at Village Bhandari, Taluka and District Osmanabad. The land at Gut Nos.54 and 61 is ancestral property of himself and other respondents. After the death of the common ancestor, the property was divided between the

petitioners and his brothers. It is also informed that some part of the property referred in Gut No.54 and 61 has been acquired for construction of National Highway and the amount of compensation has also been paid. The petitioner claims amount of his share of compensation.

3. So far as petitioner is concerned, his name does appear in 7/12 extract of Gut No.61 alongwith other respondents. There is no other revenue record depicting the name of the petitioner. It is the contention of the petitioner that in the year 1979, there was a family arrangement and the property was divided between the brothers. However, according to the petitioner, it was stop-gap arrangement and the property has not been divided by metes and bounds. The copy of Mutation Register extract dated 20.09.1979, is placed on record.

4. The petitioner has tendered a Suit bearing Regular Civil Suit No.12/2018, claiming partition and separate possession of the property. The petitioner has also prayed that the respondents be restrained from withdrawing the amount of compensation. The compensation is determined for acquisition of land at Gut Nos.54 and 61. It is the contention of the petitioner that an

application, seeking injunction has been presented in the Civil Court, however, the same has not been decided. The petitioner further contended that though he tendered an application to the Deputy Collector for referring the matter to the Civil Court and disbursing the amount of compensation in proportion and for payment of his share, the application has been rejected.

5. An affidavit-in-reply has been presented on behalf of respondent Nos.4 to 12 by one Mr.Kashinath Rangrao Patil. It is the contention of the respondents that the petitioner herein is the step-brother of the respondent No.4. It is the contention of the respondents that the mutation entry No.281 sanctioned by Tahsildar's Office on 20.09.1979, clearly shows that partition of the property of deceased Rangrao Patil had been effected by metes and bounds and the mutation entry has been certified by Competent Authority. It is contended that land of Kashinath and Shridhar has later on mutated in the name of the legal heirs. The copies of 7/12 extracts in that regard have been placed on record. According to the respondents, petitioner has no concern with the land which has fallen to the share of respondent Nos.4 to 12. It is further contended that till December 2017, the petitioner has not

taken steps for challenging mutation entry or has also not taken steps for challenging partition, which has been effected between family members. The Suit has been presented by the petitioner in January 2018, only to defeat the claims of other family members. The Sub-Divisional Officer has accepted the contentions raised by the respondents and has refused to disburse the amount of compensation.

6. The affidavit-in-reply has been presented on behalf of Mr. Shirish Ramchandra Yadav, the Deputy Collector (Land Acquisition), Manjara Project, Osmanabad, wherein he has stated that he has arrived at a *prima-facie* conclusion based on the record that the contentions of the petitioner are not acceptable. It is also recorded in the affidavit that the compensation amount is liable to be distributed amongst the three members in proportion of their areas admeasuring 1200, 1200 and 648 Sq.Meters respectively.

7. There are certain serious allegations made in the affidavit-in-reply in paragraph no.6. It is stated that on 23.03.2018, the petitioner's son made a representation to the Collector making allegation against the Land Acquisition Officer and has extended threat to proceed on 'hunger

strike until death' in the event the amount of compensation is not disbursed. The copy of the representation is annexed alongwith affidavit-in-reply.

8. The learned Assistant Government Pleader appearing for the State has brought to our notice a report tendered by the Deputy Collector, Land Acquisition, Manjara Project Osmanabad. It is recorded in the report that on 07.04.2018 at 4:43 p.m. he received calls on two occasions from Mobile no.9657972782. The Mobile Number of the Land Acquisition Officer/the Deputy Collector is 9325105005. On first two occasions, the Deputy Collector did not accept the call, whereas on the third occasion, he accepted the call. The caller from other end has extended threat to Deputy Collector and informed that his death is certain. The number was checked on True Caller and it was revealed that Mobile number belongs to one Manoj Patil. Thereafter, the Deputy Collector enquired with one Mr.Dilip Javale, the leader of Shiv Sena as to who is this Manoj Patil and whether he has any connection with property in question. It was informed by the aforesaid person that said Manoj Patil is brother of one Mukesh Patil and the Mobile number belongs to Manoj Patil. These aspects were disclosed to Smt.Shilpa Karmarkar,

Deputy Collector (Land Acquisition). A report has also been lodged to the Police Station in this regard and the matter is under investigation. After the alleged incident, all the Officers of the Office of Deputy Collector proceeded to 'Pen Down Strike' on 12.04.2018, for one day.

9. Considering the seriousness of the allegations and attitude of the petitioner, we do not propose to exercise extraordinary jurisdiction conferred under Article 226 of the Constitution of India. The litigant approaching this Court invoking extraordinary jurisdiction must come with clean hands and shall not indulge in intimidating practices. Even tendering of application to the Collector extending the threat to proceed on 'hunger strike until death' also amounts to intimidating the Officers. Such incidents if brought to the notice of the Court, shall not be taken lightly.

10. The petitioner has placed on record the following decisions:-

(i) Surya Kuer and Ors. Vs. The State of Bihar and Ors., [2018 AIR (Patna) 102].

(ii) Nirmal Singh Vs. Union of India and others [2012(4) R.C.R.(Civil) 44].

(iii) *R.Shanmugam and 6 others Vs. The Special District Revenue Officer (L.A.) National Highways – 47 & 67, and another [2013(2) C.W.C., 576].*

(iv) *Ashok Ramling More Vs. Union of India, Through the Secretary, The Ministry of Road Transport and Highway [2017(2) All MR, 792].*

(v) *Decision of this Court dated 12.03.2018, in Writ Petition No.1454 of 2018, in case of Rushikesh s/o Kashirao Deshmukh Vs. The State of Maharashtra, through District Collector, Latur and others.*

However, for the reasons recorded above, we do not propose to entertain the instant petition.

11. In view of above, Writ Petition is rejected.

(K . K . SONAWANE)
JUDGE

(R . M . BORDE)
JUDGE