

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

966 WRIT PETITION NO. 15077 OF 2017

RAMA ANANDRAO KHATING

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Sudhir K. Chavan, Advocate for the Petitioner.

Mr. S. B. Yavalkar, AGP for Respondents-State.

Mr. Manish N. Navandar, Advocate for Respondent No.4.

Ms. Sheetal V. Salunke, Advocate for Respondent No.5.

...

**CORAM : S. V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.**

DATED : 26th JULY, 2018.

PER COURT:-

1. The grievance of the petitioner is about not considering the case of the petitioner for appointment under project affected persons category.

2. Mr. Chavan, learned counsel for the petitioner submits that the reason given for rejecting the claim of the petitioner is erroneous. Bhimrao and Umaji Ananada Appaji had partitioned the land amongst themselves much prior to the Notification under Section 4 of the Land Acquisition Act and they were occupying the shares allotted to them separately. However, said aspect

is not considered.

3. Ms. Salunke, learned counsel for respondent no.5 also supports the contention of the petitioner in this regard and submits that the respondent no.5 has been rightly issued the P.A.P. certificate and appointment given to him.

4. Mr. Navandar, learned counsel submits that joint possession and ownership was recorded. The said aspect has been rightly considered.

5. We can consider the case of the petitioner, if the partition has been effectuated before the Notification has been issued. It is contention of the petitioner that the partition was effectuated much prior to the Notification under Section 4.

6. The petitioner relies on the 7/12 extract from the year 1973-1974 to contend that the possession of the petitioner and respondent no.5 was separate.

7. The petitioner may produce the mutation entries showing separate ownership and possession of the persons from whom he claims, if said mutation entries record the partition and separate possession prior to section 4 Notification, then respondent no.4 shall consider the case of the petitioner afresh. In that event, impugned order

would not be impediment. The petitioner may produce such additional document to substantiate its case.

8. Writ petition is disposed of. No costs.

(SUNIL K. KOTWAL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/July-18