

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 791 OF 2016

Shri Shahaji P. Jadhav ..Petitioner

Vs.

The State of Maharashtra and Others ..Respondents

Mr. Wasim N. Samlewale, for the Petitioner.

Mrs. Kirti R. Kulkarni, AGP, for Respondent Nos.1 to 5.

CORAM:-K. K. TATED & B. P. COLABAWALLA,JJ.
DATE :- JUNE 19, 2018.

P. C.:

Heard. By this Petition under Article 226 of the Constitution of India the Petitioner is seeking a direction against the Respondents to declare the amount of compensation in respect of acquired lands of the Petitioner bearing Nos. Gat 681, 683 and 684 situated at Kacahrewadi Tal. Tasgaon, Dist Sangli which are acquired for the project of “Shiveccha Nala”.

2 The learned AGP Mrs. Kulkarni appearing on behalf of the Respondent submits that there is no acquisition of the said property.

She further submits that neither possession is taken by them nor any proceedings under the Land Acquisition Act initiated. To that effect, the learned AGP filed affidavit in reply dated 25th February, 2016 duly affirmed by Dr. Rekha Vijaysingh Solanke, Deputy Collector Land Acquisition No.9, Sangli.

3 Paragraphs 7 and 8 of the said affidavit in reply read thus:-

“7:With reference to contentions in Para 3 of the Petition, I deny the contents therein as the same are false as there is only the proposal under Section 52-A of the act, by the District Collector, Sangli on 22.01.2009 to the office of Deputy Collector Land Acquisition No.1 as per letter No. 109/RR/66/SRS/09/dated 22.01.2009 in respect of proposed percolation tank Mouje Ghoti (B) (Kacharewadi), Tal Tasgon, Dist.Sangli and hence the said project is under consideration. It is humble submission that though the proposal of said project is received by said office, there is no proceedings have been initiated in respect of acquisition land and possession of the said land was not at all taken. I say that only negotiations were held between the land holders and Executive Engineer (Minor Irrigation) Warnali, Vishrambaug, Sangli, and hence 7/12 extract clearly reveals that there is no any kind of acquisition and acquiring possession of land. I say that proper procedure presented under law shall be taken as and when it is decided to acquire the subject land of the Petitioner. Hence, there is no cause of action at all arose to the Petitioner to file present Petition. I further respectfully submit that no reliefs prayed in this Petition cannot be granted to the Petitioner under writ jurisdiction.”

“8: With reference to the contentions in Para 4 of the

Petition, I say that the contents therein are totally false and hence it is denied by present Respondent. The Present Petitioner is misleading this Hon'ble Court in respect of "Shivecha Nala" i.e. proposal S. R. 2594 and S. R. No. 2595. Both these proposals were within the power of Deputy Collector, Sangli No.1. The Deputy Collector, Sangli No.1 has completed proposal S. R. 2594 and S. R. 2595 was referred to the present office and it is yet under consideration. The present Respondent office has not at all acquired any kind of land for the purpose of percolation tank and there is no notification under Section 4 of the Act which is clear mandatory in form and hence no steps to acquisition of any land are initiated or completed till today. Hence, the Petitioner cannot compel to do such acts to present Respondent's office by filing the Writ Petition under Article 226 of the Constitution of India. Hence, on this ground also, I respectfully submit that the above Petition is devoid of merits and liable to be dismissed. It is humble submission of the present Respondent that there is provision and procedure for the land acquisition and possession thereof under law and also same mandatory provisions which must be strictly followed as provided in the law and hence such procedure should be followed with do caution and care. Hence no relief prayed in Petition can be granted to the Petitioner and the reliefs sought in this Petition are untenable and contrary to the provisions of law and policy of the Government."

4 The learned counsel appearing on behalf of the Petitioner submits that in view of the affidavit in reply filed by the Land Acquisition Officer, he may be permitted to withdraw the present Writ Petition. To that effect, he has given in writing. Same is taken on record and marked "X" for identification. Same is accepted.

5 The Writ Petition is disposed of as withdrawn. No order as to costs.

(B. P. COLABAWALLA, J.)

(K. K. TATED, J.)