

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.9030 OF 2016**

Shri Nilesh Tulshiram Thakre & Ors. .. Petitioners
V/s.
The Special Land Acquisition Officer,
Nashik & Ors. .. Respondents

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Mr. Pramod N. Joshi, a/w. Mr. Pratik Rahade, for the Petitioners.

Mr. S.D. Shinde, for Respondent No.3.

Mrs. Madhubala Kajle, "B" Panel Counsel for Respondent State.

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**CORAM: A.A. SAYED &
S.C. GUPTA, JJ.**

DATE : 23 AUGUST, 2018.

P.C.:

. The Petitioners have sought the following reliefs in the
Petition:

(a) Issue an appropriate Writ/Order, directing the Respondents to decide and pay the amount of compensation in respect of land bearing Gat No.103(1) admeasuring 26 R, situated at Village Mhasrul, Taluka and District Nashik, which has been unauthorisedly taken into possession and has been utilized by acquiring it for the purpose of "Alandi Left Bank Canal", by the Respondents and the Respondents should be directed to pay the aforesaid amount of compensation along with

necessary statutory benefits, interest, solatium etc. to the Petitioners; forthwith.

(b) In the alternative, issue an appropriate Writ/Order directing all the Respondents to decide, and take steps within time bound schedule, the Representations, made by the Petitioners which are at **Exhibit “B” collectively.**

(c) In the alternative, issue an appropriate Writ/Order, directing the Respondents to give back possession of the area admeasuring 26 R from Land bearing Gat No.103(1) situated at Village Mhasrul to the Petitioners.

2. The case of the Petitioners is that out of the land bearing original Gat No.103, which was originally admeasuring 9 Hectors 30 R and belonging to Hiranman Kisan Shinde, his ancestors purchased an area of 1 Hector 65R on 4 June 1982. This was given a separate Gat No.103(1). On 24 June 1996, Notification under Section 4 of the Land Acquisition Act, 1894 ('LA Act' for short) was issued by Respondent No.1 Land Acquisition Officer for the purposes of acquisition of lands for construction of 'Alandi Left Bank Canal'. On 6 December 1997, Notification u/s. 6 of the LA Act was published in the Govt. Gazette which culminated into Award dated 31 March 1998. According to the Petitioners, the Authorities committed a mistake in joint measurement being Measurement Plan No.304 dated 23 March 1998, which showed the land belonging to the Petitioners i.e. Gat No.103(1), as land Gat

No.103(2), and the acquisition proceedings were continued in respect of Gat No.103(2) and not Gat No.103(1). The grievance of the Petitioners is that because of this mistake in the Award, committed by the Respondents, the land belonging to the Petitioners has been utilized without paying any amount of compensation. The Award has been passed without verifying the Revenue Records and no award is passed in respect of Gat No.103(1) belonging to the Petitioners. The Petitioners were not given any notice in respect of the acquisition of land belonging to them. According to the Petitioners, the revenue records clearly showed the name of the Petitioners/their forefathers as owners of the land, admeasuring 1 Hectore 65 R, Gat No.103(1). However, the Respondents did not care to look into this aspect and the entire land acquisition proceedings proceeded in respect of the land bearing Gat No.103(2) and not in respect of Gat No.103(1).

3. An Affidavit in Reply has been filed by the Sub-Divisional Officer. In paragraphs 3, 4, 5 and 6 it has been stated as follows:-

3] I say and submit that, the Award in Land Acquisition Case No.9 of 1988 has been declared by the then Special Land Acquisition Officer No.1, Nashik on 07/04/1998. I say and submit that, due to the distribution of acquisition work and reformation of the jurisdiction of the land acquisition offices the office of the Special Land Acquisition Officer No.1, Nashik has been abated. I say and submit that, now, the issue of acquisition of the suit land comes under the jurisdiction of the Sub Divisional Officer, Nashik.

4] I say and submit that, the Petitioners have grievance about non paying of compensation to them instead of acquiring their land and as claimed by the Petitioners it has been caused due incorrect measurement of the land in question.

5] I say and submit that, to resolve the issue in question Respondent Nos. 1 and 2 will carry out the re-measurement of both lands in question and after measurement if these Respondents found substance in the claim of the Petitioners, then these Respondents will pass the necessary orders in the matter.

6] I say and submit that, these Respondents hereby undertake to complete aforesaid exercise (within 6 months) in time bound manner from the direction of this Hon'ble High Court.

(emphasis supplied)

4. An Affidavit in Reply has also been filed by Respondent No.3 Executive Engineer, Nashik Irrigation Division, Nashik. In paragraph 6 it is stated as follows:-

6. I say that Respondent No.3 has dutifully and within time submitted a proposal to Respondent Nos. 1 and 2 and I say that the further actions upon the said proposal were to be taken by Respondent Nos. 1 and 2 and the present Respondent is not

aware as to what procedure, action has been taken by Respondent Nos. 1 and 2.

5. In the circumstances, in view of the stand taken by the Respondents in the Affidavit in Reply, we direct that in the event the claim of the Petitioners is found to be correct upon carrying out re-measurement of the lands, the Respondents shall complete the entire exercise of acquisition within six months from today.

6. The Petition is disposed of in the above terms. All contentions are kept open.

Smita
Johnson
Gonsalves

Digitally signed by
Smita Johnson
Gonsalves
Date: 2018.09.11
18:18:34 +0530

(S.C. GUPTE,J.)

(A.A. SAYED,J.)