

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5740 OF 2018

Ramchandra Gyandeo Chaudhari Petitioner
Vs.
State of Maharashtra & Others Respondents

Mr. Atul Rajadhyaksha, Senior Counsel i/by Mr. Vikas
Gupta for the Petitioner.
Mr. A.I. Patel, Addl. GP with Mr. Akshay Shinde,
Special Counsel, for the Respondents.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : JUNE 26, 2018

P.C:

1. The petitioner has moved this Court claiming that he would be forcibly evicted from a land bearing Survey No.183/0, admeasuring 0-83-2 Ares lying, being and situate at Village Ranjanpada-Owe, Taluka Panvel, District Raigad. He apprehends that the dispossession would be without the due process of law. He is in possession of the land. He is not an allottee thereof. He is at best a resident of the village. He has stated that the City

and Industrial Development Corporation of Maharashtra Limited has acquired lands for fulfilment of the objective of the development of the new town of Navi Mumbai. Agricultural lands were also acquired. However, it is stated that the particular land was in use and occupation of the petitioner for the last 50 years. He has been cultivating the same. The petitioner refers to several documents to complain that despite his settled possession the petitioner's case for allotment of the land to him was not favourably considered. There was a physical survey conducted and a survey report was filed which also depicts that the petitioner is in possession. Then, the third respondent addressed a letter, dated 16-3-2018, to the Circle Officer, Taloja and sought a report from him as to whether the property in question has been allotted to project affected persons and particularly the Koyna Dam Project. The Circle Officer informed that no order has been passed with respect to allotment of this land to the project affected persons. Then it is stated by the petitioner that the third respondent completed the inquiry and he recommended the petitioner's case for allotment.

The petitioner's case was recommended on the footing that there is a settled possession of more than four decades. It is then claimed that builders and developers had an eye on this property and they were contacting the project affected persons and getting documents executed showing a private agreement of purchase. In the circumstances, when the land was to be allotted to the petitioner as a project affected person, it was not open for the employees of a local builder to arrive at the plot and direct the petitioner to vacate it so as to cause a survey to be done. It is that attempt which is made at the behest of the builder by even the statutory authorities which compelled the petitioner to move this Court on a serious apprehension that he would be dispossessed, save and except by due process of law.

2. On perusal of such a petition and hearing Mr. Atul Rajadhyaksha, Senior Counsel appearing in support thereof, we are of the opinion that this petition raises disputed questions of fact. Secondly, the petitioner is not without remedy so as to protect the settled possession and attempts at dispossession by those who could not have entered upon the land allegedly. In

the circumstances, the petitioner could have brought a suit to protect his settled possession and the attempts at his forcible dispossession. We do not think that in writ jurisdiction we could cause a notice to be issued, only on the version of the petitioner, to the respondents and seek their explanation. The petitioner can very well approach the nearest and Competent Civil Court and bring a suit, if so advised. Once that remedy is complete and efficacious, and there being a clear dispute of fact, we do not wish to entertain this petition. It is dismissed.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)