

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6705 OF 2016

Bhagu Bhiku Gawate & Ors.

....Petitioners

Versus

The State of Maharashtra & Ors.

....Respondents

Mr. D.S. Patil for the petitioners.

Mrs. M.P. Thakur, AGP for the State.

Mr. Pawan Patil i/b. Triyama Legal for R.No.7.

**CORAM : RANJIT MORE AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATE : 21st FEBRUARY, 2018

P.C. :

1. Mr. D.S. Patil, learned counsel for the petitioners having taken instructions from his client states that he is not pressing the relief in terms of prayer clause (a) and he restricts his prayer only in terms of prayer clause (b). Statement is accepted. Apart from the relief claimed in prayer clause (b), the petitioner is seeking directions to the respondent no.7 to accept the alternative land of equal area instead of the land under acquisition.

2. The petition was placed before us on 30th June, 2016, when the Court passed the following order :-

P.C.:

1. Mr. Patil, learned Counsel appearing for the Petitioners at the outset submits that without prejudice to the rights and

contention of the Petitioner that acquisition has lapsed under section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Petitioners are ready and willing to give alternative land of equal area instead of the land under the impugned award in terms of prayer clause (b). Mr. Mali, learned AGP seeks time to verify whether amount of compensation is deposited in the Court and physical possession of the land in question is taken. Time granted. Adjourned to 21st July 2016. Till then, parties shall maintain status quo regarding the subject land. ”

3. Respondent No.3 - Mr. Uttam Rajaram Patil, Deputy Collector (Resettlement), Pune has filed an additional affidavit stating that he has no objection for the course of action suggested by the petitioners. The Respondent No.7 in whose favour acquisition of land was allotted has also no objection if the course suggested by the petitioners is accepted. Mr. D.S. Patil, learned counsel for the petitioners states that his client is ready and willing to give 0H-55R from southern portion of the land situated at village Nanekarwadi, Taluka Khed, District Pune instead of 0H-55R from Gat No.193 towards eastern side. He also makes a statement that an alternative land which has been given to the Respondent No.7 is not encumbered. He also states that he will not claim more compensation. The learned AGP also makes a statement that the land under acquisition was allotted only to the Respondent No.7 and no other person has any right to the said land. Statements are accepted.

4. In the light of the above, the petitioners and Respondent No.7 have entered into Consent Terms dated 21st February, 2018.

Paragraph 1 to 8 of the Consent terms are as follows :-

“ I] The Respondents have consented for allowing the Petition in terms of prayer clause 'b'. Petitioners have not pressed prayer clause of A of the petition.

Prayer clause B read as under:

b] Respondent No. 1 to 3 may be directed to consider Petitioner's proposal for the southern side part of Gat No. 193 Area 55 R as alternative land for Resettlement of Bhama Ashked Project Affected Persons and the same may be allotted to the Respondent No.7.

II] The Respondent No.7 accepted the southern side 55R part of Gat No. 193 as alternative land as shown in the Sketch enclosed herewith and marked as Annexure – A which is a part and parcel of this consent term. The rough map showing the location of alternate land is enclosed herewith and marked as Exhibit A. The access road having width of 6.09 Mtrs which is shown on the Map shall be common for all present and future owners of Gat NO. 193. Respondent No.7 shall not claim exclusive ownership over said access road nor shall claim any benefits of additional FSI or TDR etc.

III] The Respondent No. 7 shall have access to the said 55R land through the approach Road having width of 6.09mtrs showing in the sketch to have access from the Pune-Nashik Road to the eastern side part of the said 55R land.

IV] The Respondent No.7 shall not claimed exclusive right of access over the said approach road and the Respondent No.7 shall nor claimed ownership or any benefit of FSI or TDR etc. in respect thereof shall not have right to claimed. The Respondent No.7 shall not cliamed title or any benefit of FSI or TDR of the said approached road.

V] Respondent No.3 has no objection for allotment of southern side 55R part of Gat No. 193 as shown in the Sketch as alternative land to Respondent No.7. Respondent No. 3 is

having no objection for allotment of alternative land to Respondent No.7.

VI] Award passed by Special Land Acquisition Officer No.22, Pune bearing No. LAQ/22/SR/21/1999 dated 27/5/2003 for acquisition of part of land admeasuring O H.R. from out of Gat No.193, situated at Nanekarwadi – Chakan, Taluka Khed, District Pune stands satisfied.

VII] Petitioners have not received the compensation of the Acquired land under the said Award dated 27.5.2003, hence the amount of compensation shall be paid to the Petitioner with the interest accrued thereon.

VIII] The possession of the alternate land shown in the sketch shall be handed over to Respondent No.7 within one month from the date disposal of this Writ Petition. Respondent No.7 shall be entitled to hold and possess the southern side part of Gat No.193 Area 55R as shown in the sketch as Owner as Occupan Class I. ”

5. The sketch is also annexed alongwith the Consent Terms showing the de-alienated portion of the said Gat No.193 as alternative land to the Respondent No.7. The said sketch forms part of the Consent terms. The Consent terms are signed by the parties and their respective counsels. The terms are acceptable to them. The Consent terms and the sketch are accordingly taken on record and marked as 'X' for identification. Statements made by the parties, are accepted. Writ Petition stands disposed of in view of the Consent Terms.

(SMT. ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)