

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9283 OF 2015

Mr. Siddharth Vijay Jaiswal	..Petitioner
Versus	
The State of Maharashtra and ors.	..Respondents

Mr. Anil Ahuja along with Mr. S. B. Deshmukh, advocate for the petitioner.

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

Ms. Purna S. Adhav i/b. Jurispritus, advocates for the respondent No.6.

Mr. S. R. Ganabavale, advocate for the respondent Nos. 14 to 19.

CORAM : RANJIT MORE &
SMT.ANUJA PRABHUDESSAI, JJ.

DATE : 23rd FEBRUARY, 2018.

P. C. :

Heard learned counsel and learned AGP appearing for the respective parties.

2. The petition is filed for the following reliefs :

a) This Honorable Court be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, order or direction thereby directing the respondent nos.1 to 3 and 6 to consider the objections of the petitioners as per letters dated 15/05/2014 & 05/11/2014 and decide the claim of the petitioner in respect of his right, title and interest in the property i.e. land bearing survey no.84 of village Kundewahal, Tal. Panvel, Dist. Raigad which is proposed

be acquired for the purpose of Navi Mumbai International Airport.

b) This Hon'ble Court be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other writ, order or direction, directing the respondents to initiate the acquisition proceedings in respect of land survey no.84 of village Kundewahal, Tal. Panvel, Dist. Raigad after issuing notices and after giving an opportunity of hearing to all interested persons including the petitioner.

c) This Hon'ble Court be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, order or direction thereby quashing and setting aside the allotment of alternate land/plots as described in para 14 above by the Respondent No.6 along with Respondent No.1 to 3 to the Respondent nos.7 to 19 and also directing the Respondent no.6 not to execute any further document in the form of agreement, lease deed, possession receipt or any other final document in favor (sic) of Respondent no.7 to 19.

3. The subject matter of the petition is the land bearing Survey No.84 situated at Village Kundevahal, Taluka Panvel, District – Raigad admeasuring about 4 Hectares and 46 Ares. The acquisition proceedings of this land came to be initiated at the instance of CIDCO for Navi Mumbai Vimanatal Project in the year 2004 and, accordingly,

notification under Section 4 of Land Acquisition Act 1894 was issued on 31st October, 2013. Thereafter, declaration under Section 6 of the Land Acquisition Act was published on 27th August, 2014. Pending petition, the award came to be passed on 18th February, 2016.

4. The relief claimed in prayer clause (a) is about the petitioner's objections dated 15th May, 2014 and 15th November, 2014. This relief, at the outset, has rendered infructuous in view of passing of the award. Be that as it may, one Ashwini Shivaji Patil, Deputy Collector (Land Acquisition), Metro Centre No.1, Panvel, Dist. Raigad has filed an affidavit-in-reply dated 25th May, 2017. The annexure at "Exhibit -1" to the said affidavit shows that the petitioner was given notice of hearing regarding his objections. The Deputy Collector has also stated in her affidavit that the petitioner was heard and, thereafter, award was passed. The relief, claimed in prayer clause (a), therefore, cannot be granted.

5. So far as relief claimed in prayer clause (b) is concerned, the petitioner claims an opportunity of hearing before passing the award. Apart from the fact that the award is passed, we find that the petitioner is claiming interest in the property by virtue of Agreement to Sell dated 2nd May, 2005. This agreement is executed by 21 persons who

claim to be in possession of the subject property. The 7/12 extract shows that the said properties are gairan land and the persons who executed the agreement in favour of the petitioner are only panchas. These persons, by no stretch of imagination, can be said to be the owners of the said property. Thus, the agreement executed in favour of the petitioner cannot create vested interest in favour of the petitioner.

6. So far as relief claimed in prayer clause (c) is concerned, it is the case of the respondent Nos. 14 to 19, that the subject land is allotted to them by the Tahasildar on 23rd August, 2010, in view of the fact that these respondents donated their land for the Bhudan Movement. Though the petitioner has sought interim relief in regard to this land, there is no challenge to the allotment order. These respondent seems to have been allotted alternative plot of land by CIDCO as project affected persons. Prayer clause (c), therefore, cannot be granted.

7. In our considered view, the petition is misconceived and we do not find any merit in the same. The petition is, accordingly, dismissed.

[SMT.ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]