

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4731 OF 2019

Hanamant Sghivagonda Bilur

...

....Petitioner

V/S

The State of Maharashtra & Ors.

....Respondents

Mr. Umesh R. Mankapure a/w Mr. Vinod Sangvikar for the Petitioners.

Mr. R.S. Pawar, AGP for Respondent Nos.1 to 4/State.

Mr. Nitin P. Deshpande for Respondent No.5.

**CORAM : A.A. SAYED &
PRAKASH D. NAIK, JJ.**

DATE : 13 AUGUST 2019.

ORDER:

1 By way of this Petition, the Petitioner has sought the following prayers:

“(a) This Hon'ble Court be pleased to declare that acquisition as to the piece of land 0.46 HR out of Survey No.1309 acquired for construction of Minor Irrigation Tank at Khojanwadi is deemed to have been lapsed as per the Section 24(2) of the Right to Fair Compensation in Land Acquisition Rehabilitation and Resettlement Act, 2013 (as no physical possession of the land is taken by the Respondent Nos.3 and 4).

(b) This Hon'ble Court by issuing appropriate order or writ be pleased to direct the Respondents to release the unutilized land (0.46 HR) to the Petitioner forthwith.

(c) Alternatively, this Hon'ble Court be pleased to direct the Respondents to release the unutilized land to the Petitioner

on lease as the same is no longer required by Respondents for the purpose for which it was acquired.

(d) During the pendency of the present Writ Petition the Respondents be restrained from interfering with the possession of the unutilized piece of land (0.46 HR) which is in possession of the Petitioner.”

2 It is not in dispute that the Petitioner had received compensation in respect of the acquisition of the subject land. Affidavit-in-Reply has been filed on behalf of the Respondent No.3-Deputy Collector (Land Acquisition) annexing the panchanama under which possession of the subject land was taken. It is an admitted position that the Petitioner has signed the said panchanama. In the teeth of the panchanama and admitted signatures, the contention of the learned Counsel for the Petitioner that the ‘physical’ possession of the land is not taken cannot be accepted. Thus, not only the compensation has been received by the Petitioner but possession of the land in question has also been taken as far as back on 31 March 2006. Merely because the Petitioner may have unauthorizedly re-occupied the said land, he cannot claim to be in physical possession of the said land.

3 In the facts and circumstances, no case is made out to exercise the writ jurisdiction of this Court. The Petition is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(A.A. SAYED, J.)

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