

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11309 OF 2018

Sitaram Ganpat Kadu	Petitioner
versus	
The State of Maharashtra and others	Respondents

WITH
WRIT PETITION NO.14627 OF 2018

Late Shrimant Madhibai Nama Thakur	
through Lrs and others	Petitioners
versus	
The State of Maharashtra and others	Respondents

Mr.Nikunj Raval with Mr.Ameya Kulkarni I/by Juris Craft and Associates for petitioners in both petitions.
Ms.S.S.Bhende, AGP, for Respondents 1 to 3 State.
Mr.Akhilesh Dubey with Mr.Uttam Dubey and Mr.Siddhesh Rajput I/by Law Counsellors for respondent no.7 in WP No.11309/2018.
Mr.Ashutosh M. Kulkarni for respondent nos.4 and 5 in WP No.11309 of 2018.
Mr.G.S.Hegde with P.B.Kadam for respondent nos.4 and 5 in WP No.14627 of 2018.

CORAM : A.A.SAYED AND
PRAKASH D. NAIK, JJ.

DATE : 26th June 2019

PC :

1. The challenge in the Petition is to the reference proceedings pending before the Reference Court. The Petitioners-tenants claim to be the owners of their lands by virtue of Section 32G of Maharashtra Tenancy and Agricultural Lands Act, 1956, which lands came to be acquired.

2. The case of Petitioners would be governed by the order passed by First Court dated 7th February 2017 in Writ Petition No.7205 of 2013, which reads as follows :

“ Heard the learned counsel for the petitioners as well as the learned Government Advocate.

2. According to the petitioners, they are the persons interested in the land, some by virtue of tenancy rights conferred upon them under the Bombay Tenancy Laws and some are owners of the land. According to the them, they were the persons notified in the notification issued under sections 4(1) and 6(1) of the Land Acquisition Act. Totally unconnected, a third party has filed an application claiming that they have purchased the land from the erstwhile owner, i.e. a public charitable trust, respondent no.3 herein. Therefore, according to them, the authority before whom such application is filed ought not to have entertained the same since they could not have purchased the land belonging to the Trust when it is a tenanted property.

3. If at all the petitioners were statutory tenants, who were entitled for a confirmation of tenancy rights and, according to the petitioners, some of them were confirmed with such certificate and if other petitioners are the owners of the land or persons having interest in the land, if they are already shown in the notification, by virtue of reference made by third party before the Land Acquisition Officer, it becomes a dispute between the persons who are claiming interest in the property by whatever means or under whatever title or source of title. Ultimately the officer has to decide the dispute under section 30 of the Land Acquisition Act holding who is entitled for compensation amount or whether there is possibility of apportionment of compensation amount.

4. The petitioners seek intervention of this Court at this stage seeking a clarification from this Court that even the reference ought not to be entertained by the officer before whom it is pending. Want of jurisdiction, maintainability and locus standi can all be matters which

could be brought to the notice of the officer who deals with the matter. After disposal of reference filed under section 30 of the Act, it is open to the parties, who are affected by such order, to take further course of legal action. We are of the opinion that at this stage, it is too early to decide the same in this writ petition whether the petitioners are entitled or the third party is entitled for the money by virtue of conveyance.

5. *With the above observations, the writ petition is disposed of.”*

3. Once the aforesaid order is passed, it is not open for other tenants/owners whose lands are covered under the same Notification, to raise the same challenge. Despite bringing this to the notice of the learned Counsel for the Petitioners, the learned Counsel kept on vehemently arguing the matter displaying complete lack of objectivity. Perhaps that stems from the fact that the learned Counsel for the Petitioners had earlier filed PIL No.179 of 2016 in his own name and appeared in-person espousing the cause of the tenants/owners of the lands covered under the Notification, which PIL was dismissed by the First Court on 21st October 2016. In the circumstances, for the reasons stated in the afore quoted order dated 7th February 2017, we dismiss the Writ Petitions. Though we spare the Petitioners of costs in the present Petitions, if any Petitions are filed in future by other tenants/owners raising the same challenge, appropriate costs would be imposed. We decline to take Written Submissions on record sought to be tendered by the learned Counsel for Petitioners.

(PRAKASH D. NAIK, J.)

(A.A.SAYED, J.)