

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3001 OF 2019

Zuja Jav Koli

..Petitioner

Versus

The Collector (Rehabilitation)

Collector, Mumbai District

(Land Acquisition Dept.) & Anr.

..Respondents

Mr. Rohan H. Barge, Advocate for the Petitioner.

Mr. Hemant Haryan, AGP for Respondent Nos.1 & 2- State.

CORAM : PRADEEP NANDRAJOG, C.J. &

SMT. BHARATI DANGRE, J.

DATE : 13th DECEMBER, 2019

P.C.

1] The Writ Petition is utterly confusing. The real grievance which the Petitioner projects is not emerging. From the pleadings and the documents filed with the Writ Petition it emerges that late Anton Elis Vaity who died on 12.09.1966 was survived by three legal heirs: Smt. Natalin Antony Vaity, Smt. Lujubai Koli and Smt. Rumubai Vaity. As per the pleadings in the Petition the Petitioner is the son of Smt. Lujubai Koli. The documents filed with the Writ Petition show that on 31.03.1973 land recorded in the name of Anton Elis Vaity was acquired.

2] One grievance in the Petition is that post acquisition compensation was not paid to the Petitioner.

3] Now as per the award the acquisition was made on 31.03.1973 and at that point of time in the revenue record name of Anton Elis Vaity was recorded as the owner of the land. In the Petition it is stated that Anton Elis Vaity died on 12.09.1966 but the award shows that when notices under Sections 9 and 10 of the Land Acquisition Act, 1894 were served Anton Elis Vaity made a claim that he should be paid compensation @ ₹ 9 per sq.yard. The award shows that Anton Elis Vaity has not produced evidence in the form of sale-deeds in the area.

4] There is no pleading in the Writ Petition as to how come Anton Elis Vaity who died on 12.09.1966 could participate before the learned Land Acquisition Collector.

5] Be that as it may, what is relevant that there is no assertion in the Petition that neither Anton Elis Vaity nor his three legal heirs received the compensation. Further there is no plea in the Petition that Smt. Lujubai Koli died.

6] We note aforesaid facts to bring home to point out that the Petition has been drafted sans material facts pleaded which would give birth to a proper cause of action.

7] The second prayer is interesting. The prayer that the acquired land should be handed over to the Petitioner on the plea that the purpose for the acquisition for different than the actual utilizes of

the land.

8] Purpose of an acquisition is always found in the notification issued under Section 4 of the Land Acquisition Act, 1894 followed by a declaration under Section 6 thereof.

9] There are no pleadings in the Writ Petition concerning the purpose stated in the notification and the declaration under Section 4 and Section 6 respectively of the Land Acquisition Act, 1894. The said two documents have also not been annexed.

10] In the absence of proper pleadings with respect to the two prayers made in the Writ Petition, we reject the Petition.

11] Since the Petition is rejected the Petitioner would be entitled to file a fresh Petition but after making proper pleadings showing cause of action emerging.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE

This order is corrected as per speaking to minutes of order dated 20th February 2020.

Balaji
G.
Panchal
Digitally
signed by
Balaji G.
Panchal
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