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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11427 OF 2017

Shri Dattatray Kondiba Mozar

.. Petitioner

Vs.

State of Maharashtra & Ors.

.. Respondents

Mr. V. S. Talkute for Petitioner.

Mr. Y. S. Khochare, AGP for Respondent Nos.1 to 3.

CORAM: PRADEEP NANDRAJOG, CJ. &
SMT. BHARATI DANGRE, J.

FEBRUARY 07, 2020

P.C.

1. Heard learned Counsel for the parties.
2. Case pleaded in the Writ Petition is that on acquisition of land belonging to the Petitioner for the Dhom Irrigation Project, he was allotted 81 Are land comprised in Gat No.335/B/3, Village – Malgaon, Taluka – Satara and was put in possession thereof. In the record of rights his name was entered.
3. Grievance of the Petitioner is to the deceased 4th Respondent being allotted 20 Are land which, as per the order under challenge, is recorded to be part of Gat No. 335/B/3.

4. The three prayers made in the Writ Petition read as under:-

“(a) This Hon’ble Court be pleased to issue appropriate writ, order or direction and call for record and proceedings pertaining to the order dated 20-07-2016 passed by the Respondent No.3 and after examining its legality, validity and propriety of the same, this Hon’ble Court further be pleased to quash and set aside the same.

(b) Pending the hearing and final disposal of the present Writ Petition the implementation, operation and execution of order dated 20-07-2016 be stayed and the Respondent-Authorities, their agents, servants or anyone claiming on their behalf be restrained from disturbing the Petitioner’s peaceful enjoyment over the land bearing Survey No.335/B/3 admeasuring 81 Are, situated at Village Malgaon, Tal. Satara.

(c) Pending the hearing and final disposal of the present Writ Petition this Hon’ble Court be pleased

to appoint the TILR, Satara or any other Survey officer as this Hon'ble Court deems fit for measurement of the land bearing Survey No.335/B situated at Village Malgaon, Tal. Satara and actual holding of the Petitioner and other holders in the said Survey number and to find out whether any land is available for allotment.”

5. Prayer (c) brings out the real dispute.
6. The dispute obviously relates to the boundaries of land comprised in Gat No. 335/B/1 ad-measuring 20 Are and land comprised in Gat No. 335/B/3 ad-measuring 81 Are.
7. It is not a case where land allotted to the Petitioner has been carved out and therefrom 20 Are allotted to deceased Respondent No.4.
8. The counter affidavit filed on behalf of the State authorities affirms as aforesaid.
9. If deceased Respondent No.4 or his legal heirs try to encroach upon 81 Are land of the Petitioner, the remedy as per

law has to be availed of, but we would commend to the Petitioner to approach the Revenue Authorities with a request that the boundaries of the land of the Petitioner be demarcated which obviously would result in demarcation of the boundary of the land comprised in two Gat numbers i.e. 335/B/1 and 335/B/3.

10. We do not issue any mandamus in terms of prayer (c) for the reason there is a procedure prescribed under the Maharashtra Land Revenue Code, 1966 for getting effected demarcation of agricultural lands. The Petition has to avail the said procedure.

11. The Writ Petition is disposed of.

SMT. BHARATI DANGRE, J.

CHIEF JUSTICE