

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1256 OF 2019

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Dhondiba Piraji Kadam and Ors.

...Petitioners

Versus

Divisional Commissioner, Pune
Division, Pune and Ors.

...Respondents

.....

Mr. N.P. Deshpande for the Petitioners.

Mr. V.S. Gokhale, 'B' panel Counsel for the Respondent Nos.1 to 3.-
State.

Mr. Y.B. Lengare for the Respondent Nos.8 to 10 and 15 to 17.

**CORAM : A.A. SAYED AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 31st JANUARY, 2020.

P.C.:-

Learned Counsel for the Petitioners states that the Petitioners are only pressing the prayer for implementation of order dated 31/03/2004 of the Additional Commissioner. By that order the Petitioners were permitted to offer the western side of their land bearing Gat No.398 for Project Affected Persons in lieu of the acquired land.

2. The acquisition of the acquired land was completed and possession was taken under panchanama, and the acquired land was allotted to project affected persons who in turn have sold the land to 3rd parties, as admitted in paragraph 8 of the Petition.

3. Some of the Petitioners had earlier filed a Writ Petition being Writ Petition No.10600 of 2018 in this Court inter alia for directions for taking possession of western side of Gat No.398. The Writ Petition was dismissed by order dated 09.01.2018. The said order dated 09.01.2018 reads as follows :

“ 1. The learned AGP for the State and the learned Counsel for the respondent nos. 8 to 10 and 15 to 17 have stated that all the petitioners, except the Petitioner No.6 Shahadu Piraji Kadam have received the compensation and that possession in respect of their land was also taken and allotted to the respondent nos.8 to 10, who in turn have sold the same to the respondent nos.15 to 17 . They therefore claim that these petitioners are not entitled to challenge the acquisition. In the light of the said statement, which is not disputed by the petitioners, Shri Bodake, the learned Counsel for the Petitioners on instructions of petitioner nos.9,15 and 20 who are present in Court seeks leave to withdraw the petition with liberty to file fresh petition only on behalf of petitioner no.6 Shahadu Piraji Kadam.

2. In the circumstances, leave with liberty is granted. The petition is dismissed as withdrawn.

3. It is made clear that we have not gone into the merits of the claim made by the petitioner no.6. All points and contentions are expressly kept open.”

4. The aforesaid order dated 09.01.2018 passed in Writ Petition No. 10600 of 2018 was challenged by filing Review Petition which also came to be dismissed. These facts have not

been disclosed in the Writ Petition. We are informed that in terms of the liberty granted by the aforesaid order dated 09.01.2018 Shahadu Piraji Kadam has filed a separate Petition challenging the acquisition.

5. For the aforesaid reasons, no case is made out to grant any reliefs to the Petitioners. The Petition is accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)