

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

967 WRIT PETITION NO.7120 OF 2019
WITH CA/4252/2021 IN WP/7120/2019

FULCHAND DAGADU RATHOD AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners: Mr. D. P. Palodkar, h/f Mr. Chaitanya S. Deshmukh.
AGP for Respondent Nos.1 & 4 / State: Mrs. M. A. Deshpande.
Advocate for Respondent No.2 & 3 : Mr. Anand V. Patil Indrale.
Advocate for Respondent No.5 : Mr. K. J. Suryawanshi.
...

CORAM : **S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE : 07th September, 2021.

P.C.:

. The learned counsel for petitioners submits that, the land of the petitioners is affected in the acquisition. This Court directed remeasurement. After remeasurement it transpires that 84R land of the petitioners is affected. According to the learned counsel, the respondents are duty bound to initiate the acquisition proceedings for 84R land. According to the learned counsel, the consent given by the petitioners to the sale deeds would not inure to the benefit of respondents. The consent was only to the extent of 2.29R and 0.7908H land to be acquired of the executants therein and not the land of the present petitioners.

2. Mr. Patil, the learned advocate for the respondents submits that, the petitioners have suppressed the fact in the petition that, they are consenting parties to the sale deeds. They are bound by the sale deeds. At that time no objection was raised by the petitioners.

3. If there is some dispute about title, it is for the competent authority to consider the same. Remeasurement has been carried out. If the petitioners 84R land is said to be affected, naturally the land under the sale deeds shall stand reduced. The executants of the sale deeds are not before this Court. It would be inappropriate to pass any order in absence of them. So also in the writ jurisdiction under Article 226 of the Constitution of India, this Court would not embark upon the investigation of the title of the executants and possession.

4. The petitioners may approach the competent authority and point out to the competent authority all the facts subsequent to the sale deed. The competent authority may consider the same. However, the competent authority shall not take decision without issuing notice to all the affected parties, such as executants of the sale deeds.

5. The executants of the sale deeds and the respondents will have every right to put forth their stand before the competent authority including the authority and power of the competent authority. The competent authority shall consider the application of the petitioners on

its own merits, in accordance with law and policy and take decision as may be permissible under the law, expeditiously and preferably within a period of four (04) months from the date of application. It is made clear that, we have not considered the matter on merits.

6. It is further clarified that the competent authority would not be competent to take decision with regard to the title of the parties.

7. In the light of the above, the writ petition is disposed of.
No costs.

8. Civil Application No.4252 of 2021 is also disposed of.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

nga