

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

27 WRIT PETITION NO. 4975 OF 2016

GODAVARI HATMAG VASTRA NIRMAL SAHARI SANSTHA
THROUGH ITS PRESIDENT SHANKAR LAXMAN BOTALWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. M.D. Narwadkar
AGP for Respondent nos. 1 and 2 : Smt. M.A. Deshpande
Advocate for Respondent no. 3 : Mr. A.S. Bajaj
Advocate for respondent nos. 5-1 to 5-4 : Mr. Kunal Kale h/f.
Mr. D.R. Deshmukh
...

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 13TH DECEMBER 2021

PC :

1. The learned Advocate for the petitioner refers to the affidavit-in-reply dated 03-05-2012, filed by the respondent nos. 1 and 2 in the Public Interest Litigation no. 87 of 2011, (instituted by the same petitioner herein), through the affiant - Sunil Balaji Mahindrakar, Special Land Acquisition Officer, Upper Penganga Project Nanded and Deputy Collector, Nanded, wherein it is set out in paragraph nos. 8 and 9, as follows :

“ 8. I say that, thereafter, the deceased Abdul Gaffar Khan had mislead the authority by letter dated 1.9.1980 and falsely contended that, this property was released from the acquisition proceeding and made an application in the year 1992 and got mutated the entry No. 794 in his name. Though Abdul Gaffar has

received compensation of the acquired property and till today the said amount of compensation was not repaid to the authority knowingly well that, this property was acquired by the Upper Pengagna Project No. 1 Nanded and the Percolation Tank. M.I.W. has released the said property and by way of misleading the authorities and created false record the said Abdul Gaffar had cheated the authorities. Now the authorities had come to know this fact of cheating the same and they were considering option of criminal prosecution against Abdul Gaffar & Others.

9. I say that, further as per the ratio laid down in the case of State of Kerla Vs. Bhaskaran Pille reported in 1997 (5) SCC page No. 342 and in case of Wagan India Glass Industry vs. Jaswant Sing reported in 2003(1) SCC page No. 335 that after the land vests in the Government the owner has no right to seek to vests land in himself even if the land is not used for the purpose for which it was acquired. After this case Government of Maharashtra vide Government Resolution LNA/13/2000TRA/67-A/2 Mantralaya, Mumbai date 12.3.2004 issued by the Revenue and Forest Department. Hence once land is acquired and possession is actually taken no question arise. ”

2. We then turn to the communication tendered by the learned AGP dated 11-10-2021, addressed to the learned AGP by the Competent Land Acquisition Authority-cum-Land Acquisition Officer, Nanded, wherein it is stated that as the dispute has travelled to the Competent Court, the amount of Rs.5,87,53,293/- is being deposited in

the said Court. The said communication is marked as 'X-1' for identification. The learned AGP adds, in relation to 'X-1', that CIDCO, Nanded has been informed that, if they do not need the land, they may accordingly take steps for deleting the land from the reservation.

3. The learned Advocate for the petitioner, therefore, submits, on instructions that this petition can be disposed off and the respondent-State will have to maintain the said stand before the Competent Court, as provided under section 3-H(4) of the National Highways Act, 1956, akin to the stand taken in the Public Interest Litigation, paragraph nos. 8 and 9, of which are reproduced above.

4. In the light of the above, this petition is disposed off.

5. We find it appropriate to record that as the land at issue, is claimed to be a Government land, and the amount of compensation deposited before the competent Court, is drawn from the State exchequer / public money, we expect the Authorities to maintain the said stand and participate wholeheartedly in the said proceedings initiated under section 3-H(4) of the National Highways Act, 1956.

[S.G. MEHARE, J.]

[RAVINDRA V. GHUGE, J.]

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