

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.7780 OF 2021

Laxmibai Shamrao Gaikwad
and others

Petitioners

Versus

The State of Maharashtra
and others

Respondents

Mr.M.R.Malpani, advocate holding for Mr.Abhishek M. Hazare,
advocate for the petitioners
Mr.K.B.Jadhavar, AGP for Respondents No.1 & 2.

CORAM : AVINASH G. GHAROTE, J.

DATE : 04th August, 2021.

PC :

1 Heard Mr.Malpani, learned Counsel holding for
Mr.A.M.Hazare, advocate, for the petitioners.

2 The challenge is to the order dated 20.03.2021, passed
by the learned Civil Judge, Senior Division, Chalisgaon, whereby
the application below Exhibit-15 in RD No.81 of 2020, filed by the
present petitioners, claiming a right in the compensation awarded
for acquisition of the land, on the ground they being the sisters of
the decree holders/respondents no.3, 4 and 5 and on account of

they being the daughters of Mahipat Asaram Bhil, has been rejected by the Executing Court.

3 The learned Counsel for the petitioners, submits that the land in question, compensation for which has been determined, was allotted in the name of Mahipat Asaram Bhil in the year 1960 and the petitioners, being his daughters, are equally entitled to a share in the land and consequent to its acquisition, in the compensation. He, therefore, submits that the impugned order cannot be sustained and is required to be quashed and set aside.

4 It is material to note that to establish the lineage or the linkage of the petitioners with Mahipat Asaram Bhil, nothing has been produced on record which could satisfy the Executing Court. The Executing Court, in fact, has considered the communications dated 04.04.1995 and 30.03.2016, issued by the Tahsildar, Chalisgaon, which states that the petitioners have not been found to be the daughters of Mahipat Asaram Bhil. The linkage, as claimed, therefore, has not been established, even on a *prima facie* basis. It has also been found by the Executing Court that the land in question was transferred to the decree holders on 26.06.1979, which is reflected from the Entry No.6745 by an order of the

Tahsildar, Chalisgaon, which also contained the terms and conditions for use of the land, which would indicate that the ancestor, namely Mahipat Bhil had no connection with the same. Nothing has been placed on record prior to 1979, to indicate, the allotment of this land to Mahipat Bhil or acquisition of the same by him, in any manner whatsoever. The petitioners have also instituted SCS No.175/2021 seeking a declaration of cancellation of the Mutation Entry No.6745 dated 26.06.1979 and a claim in the compensation in view of which, as and when the linkage is established, they will be entitled to a decree.

5 In that view of the matter, I do not see any infirmity in the impugned order.

6 The petition is without merit and is accordingly dismissed without any order as to costs.

(AVINASH G. GHAROTE)
JUDGE