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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3117 OF 2018

Ranjana Bapu Chaudhari

...Petitioner

Versus

Special Land Acquisition Officer No.22 &
Ors.

...Respondents

Mr. Pradeep Havnur with Mr. Sanjay Kharat for the Petitioner.
Mr. S.S. Panchpor, AGP for State - Respondent Nos. 1 to 4.

CORAM : K.K. TATED &
R.I. CHAGLA, JJ.
DATE : 30TH MARCH, 2021

ORDER :

1. Rule. Rule made returnable forthwith. Heard by consent of parties.
2. By this Writ Petition under Article 226 of the Constitution of India, the Petitioner is seeking directions against the Respondent to set aside and / or quash mutation entry No.3590 in respect of 2H of land which is belonging to him.
3. Learned Counsel for Petitioner submits that, the

Petitioner is the owner of the property bearing Survey No.900 and 840 situated at village Neemgaav Mhalungi, Tal Shirur, Dist. Pune. In the year 1979, the Respondent No.1 declared the Chaskaman Irrigation Project. Notification under Section 4 of Land Acquisition Act was issued on 12th March, 1998 but same was lapsed as State failed to take further action. He submits that the Respondents failed and neglected to complete the acquisition process and to pay the compensation. In spite of that, the Respondents made entry in 7/12 extract by mutation entry No.3590 stating the said land is reserved for “rehabilitation of project affected persons”.

4. Learned Counsel Mr. Havnur for the Petitioner submits that because of Mutation entry No.3590, it is not possible for the Petitioner either to dispose of the said land and / or to use the same for personal use. As the Respondents failed and neglected to take action as per Petitioner’s several letters, he filed the present Writ Petition for deleting the entry made by them in his 7/12 extract by mutation entry No.3590, that land is reserved for “project affected persons”.

5. On the other hand, learned AGP Mr. Panchpor for the Respondents vehemently opposed the present Petition. He

submits that in the present proceedings they issued Notification under Section 4 of the Land Acquisition Act dated 12th March, 1998. Hence there is no question to entertain the present Petition.

6. Learned AGP further submits that in the present matter they have filed their Affidavit in Reply dated 21st November, 2018 duly affirmed by Deputy Collector (Land Acquisition No.22), Collector Officer, Pune. He relies upon paragraph 4 of the said Affidavit in Reply, which reads thus:-

“4. I say that, thereafter the Respondent No.1 has not passed any Award to acquire the lands from Nimagaon Mhalunge, Tq. Shirur, Dist. Pune for the resettlement of the Project Affected Persons of Chasakaman Project. Thus the land acquisition proceedings initiated by Notification under Section 4 of the Land Acquisition Act, 1894 dated 12th March, 1998 was lapsed.”

7. We heard both sides at length. It is to be noted that in the present proceedings the Respondents failed and neglected to complete the acquisition proceedings in respect of the property of the Petitioner. Not only that the Respondents made mutation entry No.3590 in respect of 2H land stating that, said land is reserved for “project affected persons” under the Maharashtra Rehabilitation of Project Affected Persons Act, 1989.

Considering the submissions made learned Counsel for the Petitioner and the Affidavit in Reply filed by the Respondent No.1, particularly paragraph 4, it is crystal clear that in spite of the Notification under Section 4 of the Land Acquisition Act dated 12th March, 1998, the Respondent had not taken any steps for acquiring Petitioner's land and pay compensation. Hence the mutation entry No.3590 require to set aside. In view of this fact, the Petition is required to be allowed in terms of prayer clause (a). Hence the following order:-

a) Rule made absolute.

b) Writ Petition is allowed in terms of prayer clause (a) in respect of Petitioners land Survey No.840 situated at village Neemgaav Mhalungi, Tal Shirur, Dist. Pune which reads as under:

"a) That this Hon'ble Court be pleased to call for the records and proceedings in respect of the reservation of the petition land and after perusal of the same, be pleased to issue writ of mandamus or any other writ, direction or order thereby setting aside and / or quashing Mutation Entry No.3590 in respect of two hectares of land in the interest of justice.

c) Respondents are directed to act on the copy of this Order immediately, but in any case within three months from

the date of serving the copy of this Order.

d) Parties to act on an authenticated copy of this Order.

[R.I. CHAGLA J.]

[K.K. TATED, J.]