

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

WRIT PETITION NO. 5690 OF 2021

Arvind Yedu Abhang ...Petitioner
vs.
The State of Maharashtra
Through the Secretary Revenue
And Forest Dept. and Ors. ...Respondents

Mr. Y. B. Yengare, for the Petitioner
Ms. R. M. Shinde, AGP for the Respondent-State.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 18th NOVEMBER, 2021

PER COURT:-

. Considering the limited issue involved in this Writ Petition, by consent of both the sides we have taken up this Writ petition for final hearing at the admission stage itself. Admit.

2. Respondent Nos. 2 to 5 are the executives of Respondent No. 1-State. There is no private Respondent. Accordingly, we have heard the learned counsel for the Petitioner and learned AGP for all the Respondents.

3. The short issue involved in this petition and it is for how much duration the agricultural land belonging to the Petitioner can be

subject to restrictions? The agricultural land is situated at Village Narayangaon, Tal. Junnar, Dist. Pune and its revenue Gat No.714/A (old) and corresponding new Gat No.65/5. The predecessor in title of the Petitioner is one of the persons shown on 7/12 extract as the possessor of the land. There are two other person who are not the Petitioners.

4. The Respondent No. 1-State has issued notification thereby reserving certain lands at village Narayangaon, Tal. Junnar, Dist. Pune being the lands reserved for Kukadi Irrigation Project. Amongst several lands, the land described above is one of the lands. Thus, notification was issued in the year 1997. The revenue officers have given effect to the said notification by making an entry in other right column of 7/12 extract as land reserved for the person affected by irrigation project. Necessary mutation entry was done in the year 2001.

5. The Petitioner comes with grievance that in spite of such entry, the Respondents have not taken further steps in acquiring the land for the purpose for which it was reserved. It continues till 2021. That is why this Writ petition for issuing necessary directions to the Respondents to remove that remark from other right column of 7/12 extract. Along with petition, a copy of the Government Resolution dated 5th August 2019 is filed. It lays down the procedure for withdrawing the restrictions imposed in respect of dealing with the land reserved for the project affected person. According to the

Petitioner in respect of this Government Resolution for the last two years, no steps have been taken.

6. When we are heard learned AGP, with limited instructions available at his disposal, he has not come with a submission that all these years any steps are taken for acquiring land in question.

7. As per the said Government Resolution, the Committee has to be constituted headed by the District Collector and it consists of various representatives of the Government. The Resolution mandates the Committee to send a proposal to the government. It also lays down the format in which the information has to be submitted to the Government. The resolution further states that once the Government will approve the proposal, further action has to be taken by the concerned Collector.

8. The issue is whether the reliefs asked in the Writ Petition can be granted without procedure laid down in the Government Resolution is being followed. The learned counsel for the Petitioner relied upon a Judgment dated 14th August 2019 passed by Division Bench of this Court in Writ Petition No. 5763 of 2017 and other connected petitions. Though project was different, Division bench has decided with the objection about following procedure laid down in that Government Resolution.

9. Observation made in the earlier order passed by the Division bench of this Court were followed. This Court observed that "there is no time limit fixed for sending of record by the Committee to the Government and taking all decision by the Government on the said proposal in nutshell". This Court has observed that before allowing the petition, Court need not to wait for the following procedure laid down in that GR.

10. Ultimately right to property though not a fundamental right has been recognized by the Constitution of India by way of Article 300-A, it protects a person from any act unless authorized by law. In a case before us, though the provisions Sections 13, 14 and 15 of the Maharashtra Project Affected Persons Rehabilitation Act, 1989 (earlier known as Maharashtra Resettlement of Project Displaced Persons Act, 1976) empowers the Government to declare a particular area in affected or benefited zone. However, the effect of such order could not be given for so long period because ultimately it affects rights of the person to deal with the property. Because Section 12 of the said Act puts a restriction on transfer etc. of the said land. We are convinced that more than reasonable period is granted to the Government to take action as contemplated under the provisions of Maharashtra Project Affect Persons Rehabilitation Act. As no material is placed before us to remotely suggest that any action is contemplated under the provisions of the said Act.

11. In view of that the petition deserves to be allowed. Hence we passed the following order: -

ORDER

- 1) The petition is allowed.
- 2) Respondent Nos. 2 to 5 are directed to delete remark that land is reserved for project affected person from 7×12 extract of the land involved in this petition.
- 3) Rule is made absolute.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)