

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR**

WRIT PETITION NO.8085 OF 2019

Pandhari s/o Sadabaraao Maske

Versus

State of Maharashtra and others

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Mr. S.D. Chande, Advocate for Petitioner.

Mr. Amit Madiwale, Assistant Government Pleader for
Respondent Nos.1 to 3.

Mr. R.N. Ghuge, Advocate for Respondent Nos.4 to 9.

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATE : 8 MARCH 2021

P.C.:

By this Petition, the Petitioner has challenged the notices issued by the Respondent No.2- Sub-Divisional Officer, Washim, dated 20 November 2019, the order passed by the Respondent No.1- Collector, Washim, dated 19 July 2018, and the award passed by the Respondent No.2- Land Acquisition Officer dated 18 September 2019 in respect of Gat No.202 situated at Mouza Wai, Tq. and Distt. Washim.

2. The Petitioner has filed this Petition claiming that the Petitioner owns and possesses agricultural properties, bearing Gat Nos.90 and 202 at Village Wai. It is the case of the Petitioner that

the Petitioner entered into an oral agreement of sale in the year 2004 with one deceased Gyanuji Mhaske. It is placed on record that the acquisition proceedings in respect of the subject land Gat No.202 were initiated. The Petitioner claimed interest in respect of Gat No.202, which was rejected by the Respondent No.2-Sub-Divisional Officer by an order dated 19 July 2018. Thereafter, an award was passed in terms of the agreement on 18 September 2019 and the Petitioner has filed this Petition on 6 December 2019.

3. The main contention of the Petitioner is that the moment an application is made under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Authorities are duty bound to take steps, as contemplated under the said Act, for making the reference. The learned Counsel for the Petitioner submitted that the Petitioner is in possession of the land, which was under *Batai* for the last 30 to 35 years, and the Petitioner falls within the definition of “person interested”. This claim has been opposed by the Respondent Nos.4 to 9, in whose favour an award is rendered.

4. Copy of the judgment and decree passed by the Civil Judge, Junior Division, Washim, in Regular Civil Suit No.238 of 2009, is placed on record. This decision is rendered on 10 December 2009. The suit was filed by the Respondent Nos.4 to 9. The suit was for injunction, based on title. Issues were

framed regarding the claim of the Petitioner for ownership and possession. The counter-claim was filed by the Petitioner and the issue was framed as to whether the Petitioner is cultivating the suit land since prior to 30 to 35 years on *Batai* basis. The Civil Court rendered a positive finding in respect of the Respondent Nos.4 to 9 for title and possession and negated the contention of the Petitioner of being in possession. The Civil Court had already declared that the Petitioner was not in possession of suit land since prior to 30 to 35 years on *Batai* basis. The claim of the Petitioner of having purchased the property through oral agreement was also taken note of and was not accepted. Therefore, both the points, of title and possession of the Petitioner and the Respondent Nos.4 to 9, were agitated in Civil Court and held against the Petitioner. The learned Counsel for the Petitioner states that an appeal against the judgment and decree passed by the Civil Court is pending; however, there is no stay on the declaration regarding title and possession. In these circumstances, there is no necessity to issue any writ, as sought by the Petitioner, as his substantive rights have already been adjudicated and held against him.

5. In view of above, the Writ Petition is rejected.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Lanjewar

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