

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3215 OF 2019

TRIMBAK ASARAM SABLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.A.L.Kanade, Advocate for the petitioners.
Mr.D.R.Kale, Government Pleader for respondent/State.

(CORAM : RAVINDRA V. GHUGE AND
S.G. DIGE, JJ.)

DATE : MAY 05, 2022

PER COURT :

1. By this petition, these 4 petitioners have put forth prayer clause B, which reads as under :-

"B. By issuing writ, order or directions to respondents to return the land i.e. Adm. 3 Acre from Gut No.8 (old Sy.No.5) situated at Kanchanwadi, Aurangabad, Tq. and Dist. Aurangabad to the petitioners who are the legal heirs of original owner in view of provision provided u/s 101 of Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013."

2. There is no dispute that land admeasuring 3 acres from Gat No.8 (Old Survey No.5) situated at Kanchanwadi, Aurangabad was acquired

by the respondents for setting up an oxidation pond in 1967, from the original landlord Sakharam Sable. He has passed away. His first wife Anandibai and second wife Sujanbai have also passed away. Subsequently, his sons Dhondiram and Mojiram passed away. Mojiram is the son of Sujanbai. Aasaram is the son of Mojiram. These 4 petitioners are sons of Aasaram i.e. the great grand children of Sakharam.

3. We are unable to accept the contentions of the petitioners for the reason that the land was acquired by following the Land Acquisition Act, 1894. The award was delivered on 30.09.1969 and the compensation for an amount of Rs.50487.87 was paid as long ago as in 1969. This petition is filed on 04.01.2019 invoking Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013.

4. We do not find that this petition deserves to be entertained. If we entertain such petitions under our writ jurisdiction, when there is nothing illegal about the acquisition of land and the payment of compensation, litigants would be emboldened to dig out such cases

which are 50-60 years old and approach this Court.

5. We could have considered this case had the land of Sakharam been taken away by the State without following the due process laid down in the Land Acquisition Act, 1894 infringing his rights under Article 300-A of the Constitution of India, in the light of **Vidya Devi Vs. State of Himachal Pradesh and others [(2020) 2 SCC 569]**. However, this is not the case of illegal grabbing of land of Sakharam by the State.

6. Considering the above, the petitioners are covered by the Law laid down in **State of Kerala Vs. M.Bhaskaran Pillai [(1997)5 SCC 432]**.

7. Hence, this petition is dismissed.

(S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)