

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10857 OF 2019

Suresh Vakoji Mitake & Ors. Petitioners

Vs.

State of Maharashtra & Ors. Respondents

WRIT PETITION NO.3519 OF 2021

Maruti Rama Mitake & Ors. Petitioners

Vs.

State of Maharashtra & Ors. Respondents

Mr. Manoj Patil I/b. Y. B. Lengare for the Petitioners

Mr. V. S. Gokhale, "B" Panel Counsel for the State in Writ
Petition 10857/2019

Mr. S. L. Babar, AGP for the State in Writ Petition
3519/2021

Mr. Prasad Dani, Senior Advocate I/b. Chaitrali A.
Deshmukh for Respondent No.6.

**CORAM: S.V. GANGAPURWALA &
VINAY JOSHI, JJ.**

DATED : MARCH 25, 2022

P.C.

1 The Petitioners assail the Notification issued under
Section 10A of the Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “Act, 2013”) dated 20th August 2019.

2 The learned Counsel for the Petitioners submits that the scheme of the Act, 2013 mandates the Social Impact Assessment Report to be obtained before proceeding with the acquisition proceedings. In the present case, the Respondent No.1 appointed the Shivaji University to give Social Impact Assessment Report. The work was also done. Thereafter, abruptly, without taking these proceedings further, the Respondents issued Notification under Section 10A thereby exempting the provisions of Chapter II and III for the acquisition purposes. The Notification under Section 10A cannot be applied retrospectively. The acquisition proceedings were already initiated wherein the Social Impact Assessment Report was also called for. The Respondents cannot take such procedure in the midst and resort to Section 10A as per its convenience. The Act, 2013 is a beneficial piece of legislation for the persons whose lands are acquired. All these aspects from Sections 4 to 8 of the Act, 2013 are required to be scrupulously adhered to by

the Respondents before acquiring the property. In the Notification under Section 10A, a bald statement is made that the Government has ensured the extent of the lands for the proposed acquisition being bare minimum land required for the said project. No such report is placed on record to substantiate the same. It would be erroneous to proceed with the further acquisition. Initially, the Notification under Section 11 was issued on 28th February 2020. The same has lapsed. According to the learned Counsel for the Petitioners, the Notification under Section 11 has been issued in respect of 73H and 74 R land. Nonetheless, a major part of the land is already under acquisition. Now, the Respondents have issued fresh Notification under Section 11 of the Act, 2013. However, the entire process is dehors the provisions of Sections 4 to 8 of the Act, 2013, as such it is illegal.

3 The learned Senior Counsel for Respondent No.6 submits that the project is more than 75% complete. The total land required for the project is 283 H 95R out of that an area of 252.19R has already been acquired by passing an Award in the year 2012. Only acquisition of small portion of the land remains. The Social Impact Assessment Report

was made stating bare minimum area of land required for the project is proposed to be acquired and thereafter acquisition of the land was proceeded with. There is no averment of mala fide.

4 We have considered the submissions canvassed by the parties. It appears that the lands under acquisition are acquired for Sarfanala Medium project. The same is meant for irrigation. The purpose for which the land is acquired is covered under Section 10A of the Act, 2013. A large chunk of the land required for the project has already been acquired and the Award has been passed. The project is also in the midst of completion. The Notification under Section 10A has been issued only for the remaining area of the land. Other land had already been acquired prior to the introduction of the Act, 2013. The public project is underway. The provisions of Section 10A appears to have been complied with. Even otherwise, the Petitioners can raise objection to the Notification under Section 11 of the Act as provided under Section 15 of the Act. The said remedy the Petitioners can always avail of.

5 In the light of the aforesaid aspect of the matter, we are not inclined to interfere with the Writ Petition.

6 The Writ Petitions are accordingly dismissed. No costs.

(VINAY JOSHI, J.)

(S.V. GANGAPURWALA, J.)