

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 9653 OF 2021**

Dnyaneswar Sarjerao Rajage

... Petitioner

Versus

State Of Maharashtra & Ors.

... Respondents

Mr.Manoj A. Patil a/w. Mr.Sameer S. Kadam for Petitioner.

Mr.V.S. Gokhale, 'B' Panel Counsel for Respondent Nos.1 to 4.

***********CORAM : R. D. DHANUKA &
S. M. MODAK, JJ.****DATE : 4th JANUARY 2022.****PC. :-**

1. By this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for declaration that the acquisition proceedings in respect of the agricultural land bearing Gat No. 868 admeasuring 2 H 55 R, land bearing Gat No. 879 admeasuring 1 H 00 R and land bearing Gat No. 870 admeasuring 0 H 29 R situated at Pimpri, Taluka Maan, District Satara have deemed to have been lapsed. The Petitioner also prays for quashing and setting aside the award dated 30th December 2012. In prayer Clause (c) the Petitioner seeks Writ of Certiorari for quashing the Order dated 15th June 2017 issued by the Respondent No.4 and seeks further

directions to consider the request for exchange of land as per the proposal letter issued by the Petitioner dated 19th July 2016 and to accept the offer of alternate land bearing Gat No. 204 and 351 situated at village Pimpri, Taluka Maan, District Satara.

2. Mr.Patil, learned counsel for the Petitioner fairly agreed that his client cannot press prayer Clauses (a) and (b) and seeks to press prayer Clause (c) only.

3. The Respondent No.1 had issued a notification under Section 4 of the Land Acquisition Act, 1894, dated 4th March 2010. The notification was published in the Government Gazette on 18th March 2010. On 25th April 2011 the notification under Section 6 of the Land Acquisition Act came to be issued. On 30th December 2012 the Land Acquisition Officer made an award in respect of the land in-question. On 30th October 2015, the Petitioner issued the reminder letter to the Respondent No.4 in respect of his proposal for exchange of acquired land.

4. It is the case of the Petitioner that the Respondent No.4 by his letter dated 29th July 2016 informed the Petitioner that the process of exchange of acquired land in-question was in process. On 15th June, 2017 the

Respondent No.4 passed the impugned Order thereby rejecting the application of the Petitioner dated 30th October 2015 for exchange of acquired land.

5. Mr.Patil, learned counsel for the Petitioner invited our attention to the correspondence placed on record by the Petitioner including the letter dated 29th July 2016 , which is at page No.93 of the Petition and would submit that the proposal made by the Petitioner for exchange of the land was under consideration. He submits that, the Respondents have not taken physical possession of the land from the Petitioner and thus under Section 48 of the Land Acquisition Act, 1894, the Respondents ought to have accepted the alternate lands offered by the Petitioners in lieu of the acquired lands of the Petitioners.

6. Learned A.G.P for the Respondents on the other hand contended that the inquiry conducted on 31st December 2001 clearly indicated that the proposal for offer of alternate land made by the Petitioner was rejected, because the alternate land offered by the Petitioner was not suitable for cultivation. He relied upon the inquiry report under Section 5-A of the Land Acquisition Act. The Petitioner however did not challenge the said inquiry report at that stage and made belated application for acceptance of alternate land on 30th October 2015.

7. The District Rehabilitation Officer, Satara after giving an opportunity to the Petitioner passed a reasoned Order, rejecting the said application. It is submitted by the learned A.G.P. that by Order dated 29th July 2016 the Petitioner was already informed that his acquired lands are already allotted to project affected persons. Those project affected persons are also not impleaded as parties to the Petition. The Rehabilitation Authority has already taken possession of the acquired lands. He relied upon the mutation entry No.1392 to show that the possession of the lands in-question was already taken on 30th January 2013. It is submitted by the learned A.G.P. that the Petitioner has not taken compensation of land allowed under the Land Acquisition Award till date.

8. In our view the reliance placed by the learned counsel for the Petitioner on letter dated 29th July 2016, which is at page 93 of the Petition, is misplaced. The said communication has to be read with the Order dated 15th June 2017 rejecting the application made by the Petitioner for accepting alternate land in lieu of the lands acquired. Though the said Order was passed on 15th June 2017, the present Writ Petition came to be filed only on 10th February 2020.

9. A perusal of the Affidavit-in-Reply and the annexures to the Affidavit-in-Reply clearly indicate that in the inquiry report under Section 5-A conducted on 31st December 2001, the proposal of the Petitioner for alternate land was already rejected on the ground that the same was not suitable for cultivation. The lands of the Petitioner acquired by the Respondents have been already identified and already allotted to the project affected persons. The Petitioners has been already informed about this fact by Order dated 29th July 2016. The project affected parties who are allotted the said lands have not been impleaded as party respondents to the Petition.

10. The learned counsel for the Petitioner could not point out any provision under which the Land Acquisition Officer was bound to accept the alternate land available after declaring the award. Be that as it may, the said lands are already allotted to third parties. We are thus not inclined to interfere with the impugned Order passed by the Respondent No.4 on 19th July 2016.

11. The Petitioner is at liberty to apply for compensation awarded from the Respondents. If any such application is made, the Respondents to pay the amount of compensation to the Petitioner within the reasonable period.

12. Writ Petition is dismissed.

13. No Order as to costs.

[S. M. MODAK, J.]

[R. D. DHANUKA, J.]