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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7372 OF 2018

Shri Baban Dhondiba Badhale & Ors.] .. Petitioners

vs.

The State of Maharashtra & Ors.] .. Respondents

Mr.Omkar Chandurkar a/w Dev Upadhyay i/b Akshay Gosavi, for
Petitioners.

Mr.Atul Damle, Senior Advocate a/w Ashish Gabhale, Sangeeth
Narayanan i/b Jay & Co. for Respondent No.3-MIDC.

Mr.Anil Sakhare, Senior Advocate for Respondent No.4.

Mr.P.P. Kakade, GP a/w Mr.A.I. Patel, Addl. G.P. and Mr.R.S. Pawar,
AGP for State.

**CORAM : S.V. GANGAPURWALA &
M.G.SEWLIKAR, JJ**

DATE : 21ST APRIL, 2022.

P.C.

1] The Petitioners are seeking directions against the respondents to delete their land bearing Gat No.114, situated at Mindewadi, Taluka-Maval, District-Pune, from the acquisition process and cancel the acquisition process.

2] The learned counsel for the Petitioners submits that the Petitioners own an area admeasuring about 16H 69 R from Gat No.114. The land of the Petitioners was proposed for acquisition. Notice under

Section 32(2) of the Maharashtra Industrial Development Act, 1961 ('the said Act' for short) was issued on or about 10.10.2011 and the land of the Petitioners was acquired for the purpose of industrial development. The Petitioners raised objection to the acquisition on the ground that the Petitioners' land is Bagayat land and various crops are cultivated by the Petitioners, hence, these lands may not be acquired.

3] The learned counsel for the Petitioners submits that the Petitioners raised objection to the acquisition. The objection of the Petitioners was not decided. The Respondents are coming with the plea that no objection was raised. The same is against record. He further submits that subsequently the lands of some of the agriculturists which were subject matter of Notification under Section 32(2) of the Act were deleted. The lands of the Petitioners to the extent of only 4 H is deleted. Whereas, entire land of some of the Agriculturists is deleted. No explanation has come forward from the Respondents for deleting the lands of some of the Agriculturists. No intelligible differentia exists in deleting the land of some of the Agriculturists from acquisition and acquire the land of the Petitioners.

4] The learned counsel for the Petitioners to buttress his submission relies upon the Judgment of the Hon'ble Apex Court in the case of ***Hari Ram & Anr. vs. State of Haryana & Ors. Reported in (2010) 3 SCC 621***. He submits that similarly situated persons are to be treated similarly. The act of the Respondents of not deleting the land of the Petitioners from acquisition is arbitrary and violative of Article 14 of the Constitution of India.

5] Mr. Atul Damle, the learned Senior Counsel for Respondent

No.3- MIDC and learned Senior Advocate Mr.Anil Sakhare, for Respondent no.4-Foton Motors Manufacturing India Pvt. Ltd. to whom land acquired from the Petitioners is allotted, submits that the entire process has been followed threadbare. The notification had been issued. Within the stipulated period, the Petitioners did not raise any objection. The lands required for industrial purpose have been retained and rest of the lands have been deleted. The Petitioners are also beneficiary of the deletion of the land as 4H land of the Petitioners are deleted from acquisition. According to the learned Senior Counsels, the possession receipt is on record to substantiate that the possession of the writ land has been taken and subsequently possession of the same is handed over to Respondent No.4. The learned Senior Counsels contend that the amount of compensation of the entire land has been deposited. According to them the land vests with the Respondents. An Award has been passed on 24.03.2017 and now the Petitioners cannot agitate about acquisition.

6] The learned Senior Counsel relies on the Judgment of the Division Bench of this Court in the case of ***Vitthaldas Tribhuvandas Bagadia & Ors. vs. The State of Maharashtra & Ors. In Writ Petition No.285 of 2012 decided on 20.12.2017.***

7] We have also heard learned Government Pleader.

8] We have considered the submissions.

9] It appears that Notification under Section 2(g) of the said Act was issued declaring the area as notified industrial area. Subsequently, Notification under Section 32(2) of the said Act was published in the

official gazette by the State Government inviting objections of the land owners or any other persons interested in the said lands. The said Notification was issued on 10.10.2011 and objections were invited from the concerned/affected persons upto 15.11.2011. Subsequently, Notification under Section 32(1) of the said Act is also issued and an Award came to be passed on 24.03.2017. Upon Notification under Section 32(1) of the said Act, the lands would absolutely vest with the Government free from encumbrances.

10] It would appear that upon issuance of Notification, the objections were called. The Petitioners, it appears that, did not raise objection within the time stipulated and in the month of December 2011 had communicated with the Respondents about the land being Bagayat and crops undertaken by them. None the less, fact remains that upto the stipulated period i.e till. 15.11.2011, objections were not filed by the Petitioners.

11] An award is already passed. It has become final on 24.03.2017. The Petitioners under the present Writ Petition have not challenged the Award. In fact, once Award is passed, unless Award is challenged, the Petitioners cannot claim other relief.

12] The possession receipts are on record. The possession has been taken by the Government. The same is handed over to the MIDC and subsequently handed over to Respondent No.4 to whom the land is allotted. Various possession receipts are matter of record.

13] The requirement of the land for the industrial purposes is considered by the Authorities. Initially an area about 546.602 H was

reserved for industrial purpose. The decision was taken to delete an area of about 91.626 H land. The Petitioners are also beneficiary of the subsequent decision to delete part of the land from acquisition. The Petitioners 4H land is also deleted. No malafides are alleged against the Respondents in the present Writ Petition. The policy decision of State and its Authorities cannot be interfered with unless it is shown that the policy decision is arbitrarily and/or unreasonable. In the present matter, a conscious decision has been taken to delete some of the land from the acquisition process prior to passing of the Award.

14] We could have considered the submission of the learned counsel for the Petitioners about discrimination, however, it needs to be considered that some of the land of the Petitioners is also deleted from acquisition. So, it cannot be said that the decision of the Respondents is not bonafide or is tainted with malafide. This Court would not sit over as an Appellate Authority over the policy decision taken by the Respondents. It has been submitted by the Respondents that the developed plot is also reserved for the allotment to Petitioners apart from amount of compensation deposited for the payment to the Petitioners.

15] In the light of above, we are not inclined to entertain the Writ Petition. Writ Petition is disposed of. No costs.

[M.G.SEWLIKAR, J]

[S.V.GANGAPURWALA,J]