

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15559 OF 2022

Mr. Vikas Ramsamujh Upadhyay

and Ors,

..Petitioners

V/s.

The State of Maharashtra and Ors.

..Respondents

Mr. Karan Bhosale a/w Vinodini Shrinivasan, Megha Gupta,
Mayank Trhipathi i/b Hedgehog and Fox for the Petitioners.

Mrs. M.S. Bane, AGP for the Respondent/State.

Ms. Pradnya Bansode a/w Sujit Gaikwad for Respondent No.4.

CORAM : R.D.DHANUKA, AND
M.M.SATHAYE, JJ.

DATE : 22 DECEMBER 2022

P.C.

. The learned counsel for the Petitioners seeks leave to insert amendment to amend the notice dated 11.12.2022 issued by Respondent No.3 alleging that the alleged disputed filed by the landlord has been dismissed and calling upon the Petitioners to vacate from their respective tenements. Leave to amend is granted.

2. Amendment to be carried out within one week from today. The Petitioners to serve the amended copy of the petition upon the learned counsel for the Respondents.

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3. By this petition filed under Article 226 of the Constitution of India, the Petitioners seek an order and direction against Respondent Nos. 2 and 3 to conduct the survey and census of the plot of land described in prayer clause (a) of the petition and for other reliefs.

4. The Petitioners have alleged to have purchased their respective housing units some time in the year 2013.

5. Mr. Bhosale, the learned counsel for the Petitioners states that though the Petitioners claimed independent rights in the structures constructed on the land which was the subject matter of acquisition, no notice was issued at any point of time. Their eligibility has not been decided by the Authority for awarding compensation in favour of the Petitioners. Petitioners have annexed a table at annexures Exh.A showing the alleged date of purchase of various structures. Samples copies of the sale deeds are also annexed. According to the Petitioners, the structures were alleged to have been purchased during the period between 06.06.2013 and 25.09.2013 and 01.10.2013.

6. The learned counsel for the Petitioners invited our attention to the letter of Collector dated 02.08.2022 addressed to the Sub-Divisional Officer referring to the representation made by the Petitioners with a request to decide the eligibility of the Petitioners.

7. It is submitted that in pursuance of the said letter dated 02.08.2022, the Sub-Divisional Officer has not decided the claims or eligibility of the Petitioners to receive any compensation in respect of the structures occupied by them.

8. The learned AGP on the other hand tenders a copy of the Award dated 19.09.2013 made by the Competent Authority and Sub-Divisional Officer (Acquisition) awarding compensation in respect of the land under acquisition in which the Petitioners have claimed to have acquired various tenements in the year 2013. Admittedly, the said award made in the year 2013 has not been impugned either by the Petitioners or by the owners of the land. The said award has attained finality. Since 2013 onward, the Petitioners never asserted their claim in respect of the land under acquisition. No objection was ever raised in respect of the notices issued by the Acquiring Body at any point of time. The dates of agreement mentioned in the statement annexed at Exh.A clearly indicates that the alleged agreements have been entered into at the same time when the award had been rendered by the Competent Authority. The genuineness of the documents itself is doubtful. Merely because on the representations made by the Petitioners, the Collector has requested the Sub-Divisional Officer to decide the eligibility of the Petitioners upon the representation made by the Petitioners, that would not confer any

right in favour of the Petitioners not to vacate the tenements in their possession.

9. In our view, the Writ Petition is totally devoid of any merits and is accordingly dismissed.

10. The Petitioners are directed to vacate their respective tenements within sixty days from the date of service of notice in compliance with Section 20-I of the Railways Act, 1989.

M.M.SATHAYE, J.

R.D.DHANUKA, J.