

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 CIVIL APPLICATION NO. 27 OF 2023
IN WRIT PETITION NO.12156 OF 2022

SANDIP BABASAHEB KALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS THE PRINCIPAL SECRETARY AND OTHERS

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Advocate for applicants : Mr. Shermale K.N.
AGP for the respondents 1, 4 and 5 : Mr. A.S. Shinde
Standing Counsel for respondent no. 2 – UOI : Mr. R.R. Bangar
Advocate for the respondent no. 3 : Mr. R.L. Kute
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**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 3 JANUARY 2023

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard.

2. The petitioners have filed this writ petition seeking a direction to the respondents to take steps towards acquisition of their lands for Pune – Nashik High Speed Railway Line Project by executing the sale deeds. It is being alleged that the sale deeds in respect of the lands from the other villages have already been got executed, but for the reasons unknown to the petitioners, the matter in their respect is not proceeding with the expected speed.

3. By way of this civil application, the petitioners are praying to stay the operation of the communication dated 29-12-2022 whereby

the respondent – Sub Divisional Officer has called upon them to remain present on their respective land and proposes to undertake the inspection to ascertain valuation of the fruit bearing trees standing on their land.

4. Mr. Shermale, learned advocate for the petitioners would advert our attention to the earlier valuation report submitted by the Taluka Agricultural Officer dated 23-06-2022 whereby he has communicated to the respondent - Sub Divisional Officer that the valuation of trees which he had already proposed should be taken as final. Mr. Shermale further submits that in spite of the Agricultural Officer having twice confirmed the valuation of the trees, a fresh inspection is sought to be undertaken for ascertaining the valuation of the trees. He submits that since the notice in the petition has been made returnable on 23-01-2023, the proposed action to resort to a fresh valuation is improper and should be stayed.

5. Learned AGP submits that by way of impugned communication the respondent – Sub Divisional Officer has only proposed to undertake a fresh valuation. If the condition of the land of the petitioners has not undergone any change, the petitioners should not be apprehensive of fresh valuation. There were complaints regarding petitioners having acted hand-in-gloves with the agricultural officer and managed to obtain the earlier valuation and the proposed

action to go for a fresh valuation would confirm the allegations, whether those are sustainable or otherwise.

6. Learned advocate Mr. Kute who appears in the civil application on behalf of the respondent no. 3 *suo motu*, also opposes the application. He submits that the petitioners have resorted to fraud in collusion with the agricultural officer while obtaining the earlier valuation of the trees and that is why a fresh exercise is being undertaken.

7. We have considered the rival submissions and perused the papers.

8. It does appear that the Taluka Agricultural Officer had earlier submitted a report in respect of valuation of the fruit bearing trees standing on the petitioners' land which are sought to be acquired by private negotiations. Even by the subsequent communication he has confirmed the earlier valuation. It is on the basis of these two circumstances alone that the impugned communication is being assailed.

9. We cannot comprehend as to why when the petitioners still continue to be in possession of the lands and when they do not aver about having undertaken some activity which has changed the situation on the spot and when even they do not allege that somebody else or even the respondents have cut the trees from their land, they should be

afraid, even if a fresh inspection is undertaken. If there were fruit bearing trees standing on the petitioners' lands during last year or so, those would continue to be on the land even now, if at all those are still standing there.

10. It is in view of such peculiar circumstances, the prayer in this civil application to stay operation of the impugned communication and to stop the proposed inspection for valuation of the fruit bearing trees cannot be entertained.

11. Needless to state that depending upon the result of the fresh valuation, the petitioners would have their own rights to question the valuation.

12. There is no merit in the application. It is rejected.

13. At this juncture, learned advocate Mr. Shermale submits that the operation of this order as also the impugned communication be stayed for a period of four weeks to enable the petitioners to approach the apex court.

14. For the reasons which we have indicated herein-above, the request is rejected.

[S. G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/