

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

32 WRIT PETITION NO.7099 OF 2023

CHANDRASEN VENKATRAO JADHAV
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND
OTHERS

Mr.N.L.Jadhav h/f Nyay Scindia LLP Law Firm, Advocate for the
Petitioner.

Mr.S.B.Yawalkar, AGP for the Respondent/State.

(CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.)

DATE : JULY 3, 2023

PER COURT :

1. By this petition, the Petitioner seeks to challenge the order passed by the District Collector, Aurangabad dated 19.04.2023 by which, his request for return of land u/s 101 and 103 the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the 2013 Act).

2. In paragraph No.5 of the memo of the petition, the Petitioner has left a blank space, which reads as under :-

" 5. This land is acquired by the Land Acquisition Officer for CIDCO by following proper procedure and accordingly award is passed vide order No. _____. The compensation is also received by the Petitioner. The possession of the same was also taken in the year 1974-75."

3. In the entire petition, the Petitioner has not divulged as to when was the land acquisition process initiated under the 1894 Act, when was the award delivered, how much was the compensation quantified and who received the entire compensation amount ?

4. The learned AGP submits that the acquisition actually took place way back in 1973-74 and the Award was delivered on 17.12.1974. The compensation has been received by the father of the Petitioner. After around 50 years, a small portion of the land which is in N-10 Cidco, has been used by the Police Department and a slum area has developed over a parcel of land in N-10. It is submitted that the Petitioner now desires that land admeasuring 19 acres 5 gunthas, which is unutilized by Cidco, be handed over to the Petitioner.

5. We have perused Section 101 and 103 of the 2013 Act. The same read as under :-

"Section 101. Return of unutilised land.

When any land acquired under this Act remains unutilised for a period of five years from the date of taking over the possession, the same shall be returned to the original owner or owners or their legal heirs, as the case may be, or to the Land Bank of the appropriate Government by reversion in the manner as may be prescribed by the appropriate Government.

Section 103. Provisions to be in addition to existing laws :-

The provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force."

6. The learned AGP submits that even if some portion of land is not utilized and which has been acquired with compensation having been paid 50 years ago, the Government may decide the purpose for which the available land could be utilized. The entire acquisition process took place under the 1894 Act. The land is with the Cidco Authorities and there is no order of denotifying the land.

7. From the language used in Section 101 and 103, we are of the view that it would not assist the Petitioner since the land acquired under the present 2013 Act has to be unutilized for the period of 5 years from the date of taking over the possession. In the case in hand, the Petitioner's father has already received the compensation as per the

1894 Act. So also, the Government has issued a GR dated 12.03.2004, in the light of the judgment delivered by the Hon'ble Supreme Court in **State of Kerala and others Vs. M.Bhaskaran Pillai and another [1997 SC 2703]**, that even if the land is in excess of the portion of the land acquired for a public project or for achieving a public objective, the available land can be disposed off by a public auction and the amount generated from such auction sale, can be used for achieving public interest.

8. In view of the above, we do not find any merit in **this petition and the same is, therefore, dismissed.**

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)