

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 7639 OF 2022

Shaikh Ibrahim Gulab and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri Saeed S. Shaikh, Advocate for the Petitioners.

Shri V. M. Kagane, A.G.P. for the Respondent Nos. 1 to 8.

**CORAM : RAVINDRA V. GHUGE AND
 Y. G. KHOBRADE, JJ.**

DATE : 21ST JUNE, 2023.

PER COURT :

1. The contention of the Petitioners is that a percolation tank was constructed in 1978. The Petitioners' land has been utilized for the same. A percolation tank is standing today. The contractors have also been paid their dues. Even labourers have received their payment. It is only the Petitioners who have still not received their compensation.

2. There is no dispute that an award has been delivered on 30.06.1978 by the SLAO, Zilla Parishad, Ahmednagar. The Petitioners' property is not mentioned in the said award. It is the contention of the Petitioners that the percolation tank has been illegally constructed on their property. The Petitioners submit that they have moved an application to the District

Collector, Ahmednagar (undated). The same was served on the various revenue departments on 24.06.2022 and 27.06.2022.

3. There cannot be a debate that a person cannot be divested of his immovable property and Article 300-A of the Constitution would not permit taking away of property from a person without following the due process of law. There is no dispute that a percolation tank has already been constructed. The petitioners' gut number is 53 and the land is admeasuring 2H 85R.

4. As such, if no award is passed covering the land of the Petitioners, the authority shall consider the pending application at page No. 51 of the petition paper book and if it is found that there is neither an award, nor payment of compensation to the Petitioners, the authority would consider the deletion of the name of the State Government from the revenue record and enter the name of the Petitioners. Needless to state, this will have to be done by adopting a proper verification exercise. If it is noticed that the percolation tank stands in the land of the Petitioners, they would be entitled for the statutory compensation which shall be considered by following the due process laid down in law.

5. With the above directions, **this petition is disposed off.**

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]