

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

WRIT PETITION NO.10422 OF 2017

**THE VILLAGE PANCHAYAT OF KHASAPURI
THROUGH ITS UPA SARPANCH N B TANPURE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr. Devakate Anant R
AGP for Respondents/State: Mr. S. J. Salgare
Advocate for Respondent Nos.7 to 13: Mr. K. R. Doke

...

**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 28.02.2023

PER COURT :

. Heard.

2. The petitioner is a Village Panchayat coming with the following prayers:

“B) To direct the respondent Nos. 1 to 3 to acquire the land Survey No. 39/B admeasuring 05 H. 96 R. with Pot-Kharab 00 H. 12 R. situated at Village Khasapuri, Tal-Paranda. Dist-Osmanabad as per provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and make its allotment for rehabilitation of village Khasapuri as per existing houses of villagers, by issuing writ of mandamus or Certiorari or any other writ or order;

C) To direct the respondent Nos. 1 to 3 to complete the acquisition proceedings as per provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 expeditiously, by issuing writ of mandamus or any other writ or order. ”

3. Learned advocate for the petitioner submits that due to the exigencies, the villagers of the petitioner were allowed to squat on Survey No.39/B of Village Khasapuri, Taluka Paranda, District Osmanabad, which is a private property owned by respondent Nos.7 to 13. However, the civil court has passed a decree in their favour directing the petitioner and the villagers to vacate it. Faced with the situation, since the petitioner and villagers have been occupying the concerned pieces of land since last more than four decades, according to them the State is under obligation to acquire the property of the respondent nos.7 to 13 by resorting to the Land Acquisition Act.

4. Admittedly, there is a decree in favour of respondent Nos.7 to 13 for possession of the very same property. According to their learned advocate, in execution of the decree already 10 acres of portion has been handed over to them.

5. The plight and right of the petitioner and its villagers apart, since the decree of a civil court has reached finality and respondent Nos.7 to 13 have been held entitled to recover possession of that property, no mandamus as is being sought vis-a-vis the property belonging to respondent Nos.7 to 13 can be issued.

6. We appreciate the difficulties likely to be faced by the villagers, but this Court in exercise of jurisdiction under Article 226 of the Constitution of India, cannot pass any order which would run contrary to the decree of the civil court. If the State feels and decides to undertake some acquisition to rehabilitate the villagers, it is free to do that.

7. However, in light of the relief being claimed by the petitioner and villagers, we have no option but to dismiss the petition. The writ petition is dismissed.

(S. G. CHAPALGAONKAR, J.)

Sameer

(MANGESH S. PATIL, J.)