

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

993 WRIT PETITION NO.10457 OF 2017

**NARAYAN DHUPAJI PANDHARE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioners : Mr. Pahune Patil Nandkishor J.
AGP for Respondent Nos. 1 to 3 : Mr. A.S. Shinde
Advocate for Respondent No. 4 : Mr. C.C. Chaudhari-Kutti

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

DATE : 17.02.2023

PER COURT :

We have heard the learned advocate for the petitioner, learned A.G.P. and the learned advocate Mrs. Kutti for the respondent No. 4.

2. The petitioners' claim that their lands have been taken over in possession on 29.03.1995 by the respondent No. 4 for its project.

3. The petitioners had filed Writ Petition No. 1339/2007 which was on similar lines seeking a direction against these very respondents to initiate an acquisition process and to pay compensation. As can be seen from the order passed in that writ petition dated 20.11.2007, a statement was made that a proposal for acquisition of the writ property was already submitted and on that basis the writ petition was disposed of.

4. It appears that pursuant to a proposal submitted by the respondent No. 4, the respondent No. 3 Land Acquisition Officer by his letter dated 24.01.2011 had informed the Collector, a copy of which was addressed to the respondent No.4, putting up a demand for an amount of Rs. 1,36,850/- for undertaking the further process of acquisition.

5. It appears that even thereafter, the respondent No. 3-Land Acquisition Officer seems to have addressed a letter to the respondent No. 4 on 21.02.2018 requesting it to go for acquisition by way of direct purchase.

6. Admittedly, the matter is standstill as far as the rights of the petitioners to have the compensation. The situation is appalling. Though the right to property is no longer a fundamental right, it continues to be a constitutional right under Article 300A. The petitioners' land has been used for a public project in 1995 and they are still to get a single farthing. The situation is indeed unfathomable and the conduct of the respondent No. 4 is liable to be deprecated. For that matter even the inability of the respondent Nos. 1 to 3 to take the matter further is more serious. It is certainly the duty of a State to protect the rights of its citizens. Allowing a citizen's property to be used without even initiating any lawful process, to our mind is anarchic. If at all it harbours a feeling of helplessness since the respondent No. 4 which is the user department, then it should prompt the legislature to find a way out. It cannot be allowed to merely turn a blind eye.

7. Today the learned advocate for the respondent No. 4 tenders across the Bar a communication addressed by him to the respondent No. 3-Land Acquisition Officer dated 02.12.2022 raising certain doubts, now that the proposal for acquisition is to be forwarded after lapse of so many years of taking over possession.

8. We only stop by saying that the situation is incomprehensible and needs to be dealt with sternly.

9. The land cannot go back to the petitioners since it has already been put to use. The only course now available would be to direct the respondents to undertake whatever process they intend to so that the petitioners get the compensation at the earliest.

10. We allow the petition.

11. We direct the respondent No. 4 to forward the appropriate proposal within four months of this order. The respondent No. 3-Land Acquisition Officer thereafter shall proceed to undertake the process of land acquisition under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as expeditiously as possible and shall conclude it within the statutory time.

12. Even if the respondent No. 4 fails to submit a proposal as is directed herein within four months, irrespective of the fact that whether there is any such proposal or otherwise, the respondent No. 3 shall proceed to take all the necessary steps leading to drawing of the final award.

13. On such award being finalized, the respondent No. 4 shall pay the amount of compensation determined by the respondent No. 3 to the petitioners within six months of the date of the award.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

mkd/-