

Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2414 OF 2023

Baban Tatya Jadhav

..Petitioner

Vs.

State of Maharashtra & Ors.

..Respondents

Mr. Vikrrant Shinde with Mr. Ranjit Shinde and Ms. Bhavika Shinde for
Petitioner.

Ms. M. S. Bane, AGP for State.

Mr. Vikas Somavanshi i/b. Mr. Vaibhav Ugle for Respondent No.10.

CORAM : G. S. KULKARNI &
JITENDRA JAIN, JJ.

DATE : JULY 27, 2023

P.C.:

1. We have heard learned counsel for the parties on the present proceedings yesterday. The proceedings were adjourned for today to enable Ms. Bane, learned AGP for the State, to take instructions.

2. This petition has been filed praying for the following reliefs:-

“A. That this Hon’ble Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction or order under Article 226 of the Constitution of India, 1950 and to direct the respondents to allot the agricultural land admeasuring 0.41 Ares, situate at Gat No. 15 (New Gat No. 15/1), Village- Dhangarwadi, Tal- Patan & Dist- Satara to the Petitioner by the respondents herein.

AA. That this Hon'ble Court be pleased to issue Writ Mandamus or Writ in the nature of Mandamus thereby quashing and setting aside the order dated 03.04.2017 passed by the Respondent No.4 i.e. Ld. Sub-Divisional Officer, Karad, Satara being arbitrary, illegal and without authority of law.

AB. That pending hearing and final disposal of the present petition that this Hon'ble Court be pleased to stay the effect and operation of the Order dated 03.04.2017 passed by the Respondent No.4 i.e. Ld. Sub-Divisional Officer, Karad, Satara and all the subsequent actions pursuant to the impugned order dated 03.04.2017.

B. That this Hon'ble Court may direct to the Respondents that the said land which is situated at village Dhangarwadi, Tal-Patan & District – Satara, i.e. old Gat No. 15 his (New Gat No. 15/1) additional 0.40 R area should not be occupied for acquisition.

C. That this Hon'ble Court may direct to the Respondents that Gat No. 1268B of 7/12 extract should be closed and it should be included 0.18 R. areas in the Gat No. 1268A.

D. It is humbly prayed that this Hon'ble Court may be pleased to Quash the action taken by Respondent No.4 for allotment of 0.41 Ares, situate at Gat No.15 (New Gat No). 15/1, Village – Dhangarwadi, Tal-Patan & Dist- Satara.

E. That this Hon'ble Court may be pleased to direct the respondents to allot the petitioners said land i.e. Gat No.15 admeasuring 0.41 R and four times the value as per the current market rate and 30% compensation amount of the market rate, along with interest from 1999;

F. That this Hon'ble Court be direct the Respondent No. 1 to Respondent No.4 to provide for the monetary compensation in favour of the Petitioner for the illegal acquisition of 0.41 Ares, situate at Gat No. 15 (New Gat No). 15/1, Village- Dhangarwadi, Tal- Patan & Dist – Satara.

G. That during the pendency of this Writ Petition this Hon'ble court may be pleased to restrain the Respondents from allotting of the above said land to any other project affected person.

H. That the cost of this writ petition be awarded in favour of the Petitioner from respondents, by this Hon'ble court.

I. That such other order as justice and convenience may demand from time to time is passed in favour of the Petitioner by this Hon'ble Court."

3. The primary grievance of the petitioner is to the effect that the impugned order dated 03 April, 2017 cancelling the land allotted to the petitioner, was passed without hearing the petitioner. Considering such grievance, today Ms. Bane has placed on record a letter dated 26 July, 2023 addressed to her by Shri. Atul Mhetre, Sub-Divisional Officer, Sub-Division Karad, informing her that as the impugned order was passed without granting an opportunity of hearing to the petitioner, the impugned order dated 03 April, 2017 (page 168 of the petition) is being withdrawn, and an appropriate procedure of granting a hearing would now be adopted and accordingly, fresh appropriate order would be passed. Copy of such letter is taken on record and marked "X" for identification.

4. Thus the impugned order dated 03 April, 2017 being withdrawn, is rendered *non est*.

5. In view of the fair stand taken on behalf of the respondents, in our opinion, further adjudication of the petition is not called for. The petition

is accordingly disposed of with direction to the concerned officer to follow the procedure known to law and after issuance of notice to the petitioner and an opportunity of hearing being accorded to him, pass fresh orders in accordance with law. All contentions of the parties are expressly kept open.

6. Let fresh procedure to be adopted by the said officer be completed within 10 weeks from today. Till fresh decision is taken, ad-interim protection as granted on this petition earlier is continued to operate.

7. The petition is accordingly disposed of in the aforesaid terms. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]