

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7431 OF 2022

Gajanan Ramrao Kadam And Anr

...Petitioners

Versus

The State Of Maharashtra Thr. Principal Secretary
Revenue Forest Dept. And Ors

...Respondents

Mr. Nilesh Wable, *Advocates for Petitioner.*

Mr. V.S. Gokhale, *AGP for State/Respondents.*

**CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.**

DATE : JULY 5, 2023

P. C.

1. Rule. Ld. AGP waives service for the Respondent State. Rule made returnable forthwith. With the consent of parties, heard finally.

2. The present Petition is filed seeking necessary directions/orders against the Respondents *inter alia* directing them to pay compensation as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “**the 2013 Act**”) in respect of an area of 32-R of the Gut No. 16, owned by the Petitioners, and which has been acquired and used by the Respondents for the purposes of the Pimpalsuti Char Yojana.

3. It is the Petitioners' case that they are the owners of Gut No. 16 at village Shirsagaon Khata, Taluka-Shirur, District-Pune. The State of Maharashtra, by notification dated 26th March, 2009 issued under Section 4(1) of the Land Acquisition Act, 1894, decided to acquire some portion of the agricultural land of Gut No. 16 for construction of a Trench/Ditch Scheme. The said scheme is known as the Pimpalsuti Char Yojana. Thereafter, the Petitioners received a notice dated 8th February, 2010 from the Special Land Acquisition Officer (S.L.A.O) calling upon the Petitioners to raise any objections with regard to the acquisition of the portion of the land for the said scheme.

4. Accordingly, the Petitioners submitted their objections. It is the Petitioners grievance that without deciding their objections, the Respondent Authorities took possession of an area of 32-R from Gut No. 16 owned by the Petitioners. Thereafter, the SLAO passed an order on 11th February, 2010 by which, common Mutation Entry No. 2235 was effected in the revenue records, and as a result, a total of 32-R area owned by the Petitioners from Gut No. 16 was shown to be acquired for the Pimpalsuti Char Yojana.

5. The learned Advocate appearing on behalf of the Petitioners submitted that till date, no award has been passed in relation to this acquisition and neither, has the same been intimated to the Petitioner.

Further no compensation is also paid for the said acquisition. It is in these circumstances, that the Petitioners have approached this Court, seeking the reliefs as set out in the Petition.

6. Mr. Gokhale, the learned Advocate appearing on behalf of all the Respondents, brought to our attention the affidavit-in-reply filed by the State dated 21st November, 2022. Pointing out from this reply, Mr. Gokhale submitted that after issuance of the Section 4 Notification, as well as the declaration under Section 6, no award has been passed in relation to the Petitioners' land and therefore, the acquisition has lapsed. He submitted that these state of affairs took place because the Executive Engineer, Irrigation Research Department, did not take timely action and hence, no further action was taken for acquisition.

7. Mr. Gokhale, thereafter, brought to our attention that the affidavit filed on behalf of the Respondent No. 6 (Irrigation Research Department) dated 15th March, 2023, in which it is stated that the Executive Engineer, Assistant Engineer-I, Irrigation Research & Drainage Sub Division, Swargate, Pune-37 had demanded joint measurement (for the Pimpalsuti Char Yojana) as early as possible to the Deputy Superintendent, Land Records, Taluka-Shirur District - Pune by a letter dated 17th February, 2023. The Affidavit further states that only after such joint measurement was complete would a new

proposal for acquisition for the said project shall be submitted to the Collector, Pune. He therefore, submitted that only once this proposal is received from the Irrigation Research Department, will the state initiate proceedings for acquiring the land of the Petitioners, which is the subject matter of the present Petition.

8. We have heard the learned Counsel for the parties at some length. We have also perused the papers and proceedings in the above Writ Petition. It is not in dispute that possession of a part of the Petitioners' land namely 32-R was taken by the Respondents back in the year 2010 itself. It appears that even after taking possession, the acquisition proceedings initiated in relation to the said land lapsed and the same has been categorically stated in the Affidavit-in-reply filed on behalf of the Respondent No. 2 and 3 dated 21st November, 2022.

9. It appears that now the Irrigation Research Department would want to acquire this land by following the due procedure in law. Therefore, we are of the view that there is no requirement for a joint measurement, atleast as far as the Petitioner's land is concerned because the Mutation Entry (Page 20-A of the paperbook), the Section 4 Notification (page 45 of the paperbook), and the Section 6 declaration (page 46 of the paperbook), clearly shows that an area of 32-R of Gut No. 16 belonging to the Petitioners has been taken over by the

Respondents for the said scheme. In these circumstances, we dispose of the present Writ Petition by directing Respondent No. 6 (Irrigation Research Department) to submit a new proposal for acquiring the Petitioner's land (32-R of Gut No. 16) within a period of 4 weeks from today, without insisting for joint measurement, at least as far as the Petitioner's land is concerned.

10. This proposal, shall be submitted to the Collector office, Pune. Once this proposal is received, the Collector will initiate acquisition proceedings under the provisions of the 2013 Act, within a period of 8 weeks from the date of receipt of the proposal from Respondent No. 6. We expect that the entire acquisition proceedings shall be completed as expeditiously as possible, and in any event, within the time frame prescribed under the 2013 Act.

11. Rule is made absolute in the aforesaid terms and the Writ Petition is disposed in terms thereof. No order as to costs.

[M.M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]