

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3647 OF 2020

Sanjay Shridhar Bendre & Ors.

...Petitioners

Versus

State of Maharashtra, through

Secretary & Ors.

...Respondents

Mr. Wasim S. i/b Mr. Tejpal Ingale, for Petitioner.

Ms. P. N. Diwan, AGP for State.

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

DATE : NOVEMBER 29, 2023.

P.C.:

1. We have heard learned counsel for the petitioner and learned AGP for State.

2. This petition under Article 226 of the Constitution is filed praying for the following reliefs:

(a) Rule be issued and record and proceedings of the case from the Respondents be called for;

(b) To issue a writ of mandamus or any other appropriate writ, order or direction in the light nature of writ under article 226 of the Constitution of India;

(i) To hold and declare that, the impugned letter / communication dated 10.07.2020 of Respondent No.1 State of Maharashtra issuing directions to the Respondent No.4 Collector, Rehabilitation Pune carrying out rehabilitation of project affected persons of Gunjawani Irrigation Project on the lands of Petitioners from village Ambale, Tal. Shirur, Dist. Pune by distributing the said lands to them, although said lands are

symbolically acquired for rehabilitation of Chaskaman Irrigation Project is illegal and bad in law and in impugned letter / Communication dated 10.07.2020 be quashed and set aside;

(ii) The impugned action of the Respondents particularly the Mutation Entry No.1281 dated 31.01.1996 by putting remarks in the record of rights of the Petitioners land from village Ambale, Tal. Shirur, Dist. Pune "Reserved for Temghar Irrigation Project" also be declared as illegal and bad in law and the said Mutation Entry No.1281 dated 31.01.1996 be quashed and set aside accordingly;

(iii) The Respondents Authorities be directed to issue appropriate Notification under the law by releasing Petitioners lands from acquisition symbolically acquired by Mutation Entry No.1281 dated 31.01.1996 for rehabilitation of project affected persons of Chaskman Irrigation Project forthwith;

(c) Pending the hearing & final disposal of this Writ Petition the Respondents or their Authorities be restrained by an order of injunction restraining them from carrying out rehabilitation of project affected persons of Gunjawani Irrigation Project and Temghar Irrigation project on the lands of the Petitioners from village Ambale, Tal. Shirur, Dist. Pune symbolically acquired for Chaskaman Irrigation Project.

(d) Pending the hearing & final disposal of this Writ Petition the directions under the impugned letter / communication dated 10.07.2020 of the Respondent No.1 State of Maharashtra be kindly stayed;

(e) To allow this Writ Petition with costs.

(f) To grant any other just, equitable and consequential relief in favour of the Petitioners as this Hon'ble Court may deem fit and proper.

3. Admittedly, the land belonging to the petitioners was acquired by the State Government under the provisions of the Land Acquisition Act, culminating into an award dated 7 February 1991. Also after the declaration of such award, the possession of the land was also taken over. The land has accordingly absolutely vested with the State Government.

Almost after 33 years of the land being acquired, the petitioners have moved this Court by the present petition.

4. Reply affidavit on behalf of State Government is filed of Mr. Ajay More, Additional Collector, Pune whereby the State Government has contended in regard to the acquisition of the land being complete. It is also the contention of the State Government that the Government has every right to acquire the land for project affected persons from any village as per the requirements and also to reserve the land for specific project. It is therefore the contention that the petitioners would not have any right as also right to assert the prayers as made in the petition as also to seek any prayers in regard to deletion of the remarks which were made in pursuance of the acquisition of the said land.

5. We find much substance in the contention as urged on behalf of the State Government.

6. We find no merit in the petition. The petition is accordingly rejected. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]