
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9173 OF 2022

Dattatray Damu Godse & Ors.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr.Prathamesh Bhargude a/w Sumit Sonare, Advocates
for the Petitioner.

Mr.R.S. Pawar, AGP for State-Respondent.

Mr.Vijay Patil, Advocate for Respondent No.7.

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

DATE : AUGUST 19, 2023

P. C.

1. Rule. At the consent of the parties rule made returnable forthwith and heard finally.

2. The above Writ Petition is filed seeking a declaration that acquisition proceedings of the suit property bearing Gat No.44 totally admeasuring 02 Hectares 63 Ares out of which 01 Hectare 01 Are is shown to be acquired for the purpose of rehabilitation of the "Bhama Asked Project" [situated at Mouje-Solu, Taluka-Khed, District-Pune]

have lapsed in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Act, 2013 (for short '**the 2013 Act**'). The consequential prayer is that an appropriate direction be passed to remove the name of the Collector (Rehabilitation) and Deputy Director (Land), Pune from the mutation extract of the suit property bearing Gat No.44 and quashing and setting aside mutation entry No.1861 in respect thereof.

3. The facts in the above matter reveal that originally, out of total area of 2.63 Hectares, an area of 1.01 Hectares was sought to be acquired for rehabilitation of project affected persons of the "Bhama Asked Project". An Award was also passed in this regard on 17th January, 2004. Despite this, possession of the acquired property was not taken and neither any compensation was paid. This has been expressly confirmed by the State (Respondent No.4) in its affidavit dated 28th March, 2023, the relevant portion of which reads as under:

"2. I say that, after the award was declared on 17th January 2004, no notice was issued under the provisions of section 12(2) of the erstwhile Land Acquisition Act. I say that it is true that the possession of the said lands have not been taken till date as can be seen from the records available at the

office. I further say that after the letter was issued by the MKVDC i.e. the Respondent no.7, it was declared in the meeting, vide resolution No.38/14 that from the benefited zone of project of the Bhama Askhed, 800 hectors from the villages at Shri Kshetra Alandi, Mouje Charholi, Dhanore and Solu were released and the said villages were released from the acquisition. I say that, the copy of the said letter dated 3rd March 2004 is enclosed to the memo of this affidavit which is marked as **Exhibit-1**.

3. I further say that, compensation is not paid to the land owners of the said villages since the area has been released from the acquisition of the benefited zone of the said project. I further say that, the record available at the office do not show any notices under the provisions of section 12(2) have been issued or do not show that any Panchnama was done for the purpose of taking possession of the suit property involved in the present petition. The Respondent No.7, is the acquiring authority, their say is necessary to reach to final decision, as our office has already sent them letter, which has remain to be answered by the Respondent No.7."

4. It appears that now Respondent No.7 is in the process of acquiring a portion of the Petitioners land [to the extent of 1.75 Hectares] for the purposes of construction of a ring road. The grievance made by the Petitioner is that despite acquisition having lapsed, the name of the Collector is still reflecting in the 7/12 extract of the Petitioners land and therefore they will not be able to file any objections

to the acquisition, initiated by Respondent No.7 as the name of the Collector is still reflecting in the 7/12 extract.

5. Having heard the learned advocate appearing on behalf of the Petitioners as well as Respondent No.7, and AGP for the State, we are of the view that since the possession of the acquired property has not been taken and neither has any compensation being paid, the acquisition of the petitioners land for rehabilitation of the "Bhama Asked Project" has lapsed in view of the provisions of Section 24(2) of the 2013 Act. Once this is the case, the name of the Collector or any other Authority in the 7/12 extract cannot be allowed to continue. In these circumstances, the above Writ Petition succeeds and is allowed in terms of prayer clauses (a) and (b) which read thus:-

"(a) That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India, 1950, directing and holding that the acquisition proceedings in respect of the suit property bearing Gat No.44, totally admeasuring 02 Hectars 63 Ares out of which 01 Hectare 01 Are is shown to be acquired for the purpose of rehabilitation of 'Bhama Asked Project' which is situated Mouje- Solu, Taluka-Khed, District-Pune and award dated- 17th January 2004 have lapsed in view of provisions of Section 24(2) of Right to fair compensation and transparency in land acquisition act 2013

(b) That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India, 1950, be pleased to direct the Respondents to remove the name of the Collector [rehabilitation] and Deputy Director [land] Pune from the mutation extract of the suit property bearing Gat No.44 i.e. the suit property herein by quashing and setting aside Mutation entry no.1861 in respect of the suit property"

6. The concerned authorities are directed to carry out the directions as set out in prayer clause (b) above, within a period of 2 weeks from today.

7. Rule is made absolute in the aforesaid terms and the writ petition is also disposed of in terms thereof. However, there shall be no order as to costs.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M.M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]