

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15634 OF 2022

Mr. Jaywant Rambhau Thorve and Ors. ..Petitioners

V/s.

State of Maharashtra and Ors. ..Respondents

Mr. C.K. Bhangoji a/w S.H. Deokar, Vignesh Ashokan and J.R. Jadhav for the Petitioner.

Mr.R.S. Pawar, AGP for the Respondent Nos. 1 to 4/State.

CORAM : R.D.DHANUKA, AND
M.M.SATHAYE, JJ.

DATE : 1st FEBRUARY 2023

P.C.

. Rule. Mr. Pawar, Learned AGP waives service for Respondent Nos. 1 to 4. Rule is made returnable forthwith.

2. By this petition filed under Article 226 of the Constitution of India, the Petitioners seek a writ of mandamus to direct the Respondent Nos. 2 and 3 to permanently delete/remove restrictions from 7X12 extract/revenue record from “other rights column” of Gat No. 260/1, Gat No. 476(old), 476/1(new) situated at Mouje Charoli Khurd, Taluka-Khed, District-Pune to its original position and for other reliefs.

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3. The writ property was sought to be acquired by the State by initiating acquisition proceeding which culminated into an Award dated 01.03.2004. The Petitioner filed Writ Petition bearing No. 4644 of 2021 in this case *inter alia* praying for declaration that acquisition proceedings/Award dated 01.03.2004 in respect of the writ property stood lapsed as per the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. By an order dated 19.01.2022 passed therein, this Court allowed the said Writ Petition and declared that acquisition proceedings/Award dated 01.03.2004 stood lapsed. The said order dated 19.01.2022 passed by this Court, in the earlier writ petition filed by the Petitioner, is not impugned by the Respondents before the Hon'ble Supreme Court.

4. The Respondent Nos. 2 and 3 however, has made an endorsement in the mutation entry on 12.03.2022 stating that in respect of the various lands, including the writ property, the State Government seeks to reserve the said plot for the purposes of resettlement of the Project Affected Persons. Being aggrieved by the said endorsement so far as the writ properties are concerned, the Petitioner has filed the present Writ Petition .

5. Mr. Bhangoji, the learned Counsel for the Petitioner invited our attention to the order passed by this Court on 19.01.2022 in Writ Petition No. 4644 of 2021 and also the

mutation entry annexed at Exh.M to the petition and submits that this Court having declared that the acquisition proceedings/ Award stood lapsed, the Respondent No.1 could not have made such endorsement in the mutation entry.

6. The learned counsel also placed reliance on the Judgment delivered by this Court on 03.01.2023 in Writ Petition No. 15822 of 2022 in case of **Balasaheb Pandharinath Dhamdhare and Ors. v/s State of Maharashtra** and connected matters.

7. Mr. Pawar, the learned AGP for the Respondent Nos. 1 to 4 did not dispute that order dated 19.01.2022 passed by this Court in Writ Petition No. 4644 of 2021 declaring that the Acquisition proceedings/Award dated 01.03.2004 has lapsed in respect of the writ property, has not been impugned by the State Government before the Hon'ble Supreme Court. He submitted that he did not dispute that, as on date, the writ property is not acquired by the State Government.

8. In view of the fact that the earlier acquisition proceeding had already stood lapsed, the Respondent Nos. 2 and 3 could not have made such endorsement in the mutation record thereby stating that said plot is proposed to be reserved for resettlement of the Project Affected Persons.

9. We accordingly pass the following order.

- (i) Respondent Nos. 2 and 3 are directed to delete/remove the endorsement of restrictions from 7X12 extract/revenue record from “other rights column” of Gat No. 260/1, Gat No. 476(old), 476/1(new) situated at Mouje Charoli Khurd, Taluka-Khed, District-Pune and restore the revenue record to its original position within four weeks from today.
- (ii) It is however made clear that if Respondent No.1 seeks to acquire the said property and if Respondent No.1 is permissible in law to acquire the writ property, the Respondent No.1 to follow the requisite procedure of law for acquisition of such property.
- (iii) It is made clear that this Court has not expressed any views as to whether the State Government would be empowered to acquire the writ property under any provisions of law or not.
- (iv) All contentions of both the parties and issue of acquisition in future for any public purpose, are kept open.
- (v) Writ Petition is disposed of in the aforesaid terms. Rule is made absolute. No order as to costs.

M.M.SATHAYE, J.

R.D.DHANUKA, J.