

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.443 OF 2023

Shri. Tanajai Raghunath Wambhure ...Petitioner

Versus

The State of Maharashtra,
The Secretary, Revenue and
Forest Dept. & Ors.

...Respondents

Mr. Y. B. Lengare a/w. Mr. A. K. Gaikwad for the Petitioner.

Mr. Rajan S. Pawar, AGP for the Respondent (State).

CORAM : G. S. KULKARNI,
JITENDRA JAIN, J.J.

DATE : 12th JULY, 2023.

P.C.

1. We have heard Mr. Lengare, learned counsel for the Petitioner and Mr. Pawar, learned AGP for the Respondent-State.

2. The Petitioner has approached this Court by filing this petition in December 2022 to pursue a cause of action which had accrued to the Petitioner on 29th June 1990 i.e. the short fall in the allotment of the alternate land to the extent of 1 Hectare 20 Are of land at Village Digrajwadi, Taluka Shirur, District Pune. The Petitioner has contended that the Petitioner's father Shri Raghunath Vitthal Wambure was holding the land at village Wadha, Taluka Khed, District Pune, bearing Gut No.418/1E, admeasuring 1 Hectare 25 Are and Gat No.418/2/7

admeasuring 56 Ares, which was acquired for the Chaskman Project and also compensation was awarded in regard to the land as acquired. It is contended by the Petitioner that compensation amount of Rs.20,000/- was deposited by the father of the Petitioner by way of challan dated 17th December 1991 in the Government Treasury, Rajgurunagar, Khed for alternate land. We cannot ascertain this claim of the Petitioner unless the authorities verify the record and ascertain whether the contention of the Petitioner in that regard is correct and whether the Petitioner's father had deposited the said amount.

3. Be that as it may, the Petitioner contends that there were eight persons in the family of the Petitioner at the relevant time and the Petitioner is one of the members of the family who was entitled for 1 Hectare and 60 Are of land from the benefited zone of Chaskman Project. Such contention also cannot be verified and ascertained. The authorities could verify whether considering the number of family members and more particularly, at the relevant time, the share of 1 Hectare 60 Are land from the benefited zone of Chaskman Project, whether at all would be entitled to the Petitioner. The Petitioner has contended that on 29th June 1992, Respondent No.2 allotted land Gat No.277/2 admeasuring 80 Ares and Gat No.669/2 admeasuring 1 Hectare 20 Are at Village Koregaon, Bhima, Taluka Shirur, District Pune. It is his contention that however land bearing Gat No.669/2 was

allotted to some other persons and, therefore, the Petitioner had received land Gat No.277/2, admeasuring only 80 Ares.

4. It appears from the averments as made in the petition that for about 20 years, the Petitioner did not do anything, as for the first time on 20th February 2011, Petitioner submitted a proposal in respect of Gat No.125/B for allotment of 1 Hectare 20 Are at Village Dawadi, Taluka Khed, District Pune. We may also observe that there is no explanation whatsoever provided by the Petitioner as to why for 22 years no proposal was made and infact, it appears that the Petitioner was sleeping over his rights.

5. This apart the Petitioner claims that on 17th December 2013, Petitioner himself had chosen land at Gat No.197 at Village Dingrajwadi, Taluka Shirur, District Pune, which he contends ought to be allotted to him and after a lapse of long time that is on 31st July 2014, he requested the Respondent to allot land bearing Gat No.49/2 admeasuring 25 Ares and Gat No.50 admeasuring 69 Ares at Village Koregaon Bhima, Taluka Shirur, District Pune. Thereafter, the Petitioner almost after six years of the submission of such application dated 31st July 2014, realized that the said application ought to have been decided and as it was not decided the Petitioner has filed this petition in the month of December 2022. We find that there is no averment in regard

to such inordinate delay on the part of the Petitioner to approach this Court.

6. This is a case wherein the Petitioner intends to pursue a cause of action which had accrued to him in the year June 1992 by making a proposal on 20th February 2011 and almost after 20 years, thereafter, has filed the present petition after taking his sweet time to purportedly locate the land to be allotted to him. We are certainly not impressed with such conduct of the Petitioner so as to exercise our jurisdiction under Article 226 of the Constitution of India and to resurrect a dead cause of action. Certainly the jurisdiction of the Court under Article 226 of the Constitution of India which is discretionary and equitable is not meant for litigants who sleep over their rights. This more particularly as the delay affects prejudicially not only to the litigant but also to the State Government who is the custodian of the land being claimed by the Petitioner. In the event, we grant the relevant relief as prayed for, it is nothing but dead legal right and a belated cause of action being resurrected under the orders of this Court which is contrary to the law laid down in the decision of the Supreme Court in the case of **C. Jacob Vs. Director of Geology & Mining & Anr.**, reported in AIR 2009 SC 264, wherein, the Supreme Court has clearly observed that the writ court ought not to entertain petitions which pursue dead causes.

7. For the foregoing reasons, we find no merit in this petition. It is accordingly rejected. No costs.

[JITENDRA JAIN, J.]

[G. S. KULKARNI, J.]