



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.8084 OF 2022

1. Smt. Kantabai Moreshwar Barai
Aged about – 57 years, Occupation – Housewife,
R/o. Plot No.96, Wardha Road,
Near Hanuman Mandir,
At Khapri (Railway), Khapri,
District Nagpur
2. Shri Tushar Moreshwar Barai
Aged about 32 years,
Occupation – Service,
3. Shri Rahul Moreshwar Barai
Aged about – 30 years,
Occupation- Business

Both the petitioner 2 & 3 are
R/o. At post Khapri (Railway),
Tah – Nagpur,
District Nagpur - 441108

...PETITIONERS

VERSUS

1. The State of Maharashtra,
through Collector (Rehabilitation),
Collector Office, Civil Lines,
Nagpur
2. Maharashtra Airport Development
Company Ltd.
through Dy. Collector (Rehabilitation)
Central Facility Building,
B-Wing (North), 1st Floor,
MIHAN SEZ, Khapri (Rly)
Nagpur - 440408

3. Maharashtra Airport Development Company Ltd.
through Chief Engineer,
Central Facility Building,
B-Wing (North), 1st Floor,
MIHAN SEZ, Khapri (Rly)
Nagpur – 440408
4. Dy. Collector (Land Acquisition No.3)
Vidarbha Irrigation Development Corporation, Nagpur

...RESPONDENTS

Mr. Anand Parchure, Advocate for the petitioners.
Ms T.H. Khan, Assistant Government Pleader for the
respondent Nos.1 and 4/State.
Mr. S.Y. Deopujari, Advocate for respondent Nos.2 and 3.

**CORAM : AVINASH G. GHAROTE &
URMILA JOSHI-PHALKE, JJ.**

DATED : SEPTEMBER 05, 2023

ORAL JUDGMENT (PC)

RULE. Rule made returnable forthwith. Heard finally with the consent of learned Counsel for the parties.

2. Mr. Parchure, learned Counsel for the petitioners, admits that petitioner Nos.2 and 3 do not have any document to indicate their right or title to plot No.3 or, for that matter, any construction made

thereupon, which is styled as house No.1364/1, which is claimed to have been constructed on the land of plot No.3 in an unauthorised layout on the land of Survey No.185/1, Mouza Khapri (railway). The entire land of Survey No.185/1 has been acquired by respondent No.4 for respondent Nos.2 and 3 in respect of which it is an admitted position that the compensation for the land was granted to Gurudatta Cooperative Housing Society, Nagpur, who had laid the unauthorized layout. In respect of the claim of having made an unauthorized construction, i.e. House No.1364/1 petitioner No.1 has already been granted compensation of Rs.11,98,992/- (pg 28 and 31). Now a claim is being raised for the grant of a plot to each of the petitioners in lieu of the aforesaid acquisition, by claiming the benefit of a Rehabilitation Scheme.

3. Mr. Deopujari, learned Counsel for respondent Nos.2 and 3 vehemently opposes the contention and submits that the petitioners are not entitled to anything for the reason that the compensation for the acquisition of land has already been granted to Gurudatta Cooperative Housing Society, Nagpur, apart from which the ex gratia payment for the alleged illegal construction of House No.1364/1 has already been received by petitioner No.1, and therefore, there is no question of rehabilitation policy being applicable to her as no land has been

acquired from her. It is also contended that on account of the acquisition of the land of Survey No.81/1 which stood in the name of Moreshwar Barai and his brother, and so also House No.452 in the present Gaothan, petitioner No.1 alone would be entitled to one plot in the rehabilitation scheme. It is, therefore, submitted that the claim which is now being made for rehabilitation policy being made applicable to petitioner Nos.2 and 3 is clearly without any merits.

4. Since it is an admitted position by Mr. Parchure, learned Counsel for the petitioners that petitioner Nos.2 and 3 do not have any document of title to indicate ownership of any land or structure in the affected zone, there cannot be any question of making the policy of rehabilitation applicable to them. We, therefore, do not find any reason to entertain the petition on this ground on behalf of all the petitioners.

5. The petition is therefore dismissed. No costs.

6. Rule is discharged.

(URMILA JOSHI-PHALKE, J.)

(AVINASH G. GHAROTE, J.)