



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2205 OF 2024

ELEANOOR CHURCH THROUGH ITS CHAIRMAN NOEL ISAAC MASIH
VERSUS
STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY AND
OTHERS

Mr. S. F. Bankar, Advocate for petitioner
Mr. S. B. Narwade, AGP for respondent/State

CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.

DATE : 27th FEBRUARY, 2024

PER COURT :-

1. The Petitioner has put forth the following prayers:-

"A) Call for record and proceedings of the case, Acquisition proceeding initiated by SDM and Land Acquisition Officer Aurangabad vide outward No.2023/Bhu.san/Ladsawangi/Pr.Aa.K.E.Va.Ni/O.R./02/2022 dated 04/09/2023 for acquiring and taking possession of land situated at Vill, Ladsawangi, Tq. & Dist. Aurangabad.

B) Issue a writ of Certiorari or any other appropriate writ, order or direction of like nature to respondent Nos. 3 to 5 to exclude and to quash and set aside the acquisition proceeding initiated by SDM & Land Acquisition Officer Aurangabad vide notice outward No.2023/Bhu.san/Ladsawangi/Pr.Aa.K.E.Va.Ni/O.R./02/2022 dated 04/09/2023 to the extent of the property owned and possessed by the petitioner admeasuring 5R and 2R open space in front of Church, situated at village Ladsawangi, Tq. & Dist. Aurangabad bounded as on East: Government Hospital, on West: open space and Government road, on South: Government Godawn, on North: Government School and open space.

C) Pending hearing and till final disposal of this Writ petition, grant in injunction directing the respondents No. 3 to 5 to stay the proceeding of land acquisition up to the extent of the property owned and possessed by the petitioner admeasuring 5R and 2R open space in front of Church, situated at village Ladsawangi, Tq. & Dist. Aurangabad bounded as on East: Government Hospital, on West : open space and Government road, on South: Government Godawn, on North: Government School and open space."

2. In 1964-65, a 7/12 extract was recorded in the name of Zilla Parishad, Primary Health Centre and a hospital was mentioned in the cultivation column to the extent of land admeasuring 1 acres 12 R. The said land was sold to a Village Co-operative Society by the father of Respondent Nos. 7 and 8 i.e. Narsing Lolge in the year 1982 admeasuring 11R land. The Village Co-operative Society was recorded in 1983-84 revenue entries. The remaining land i.e. 82R remained in the name of the deceased Narsing Lolge.

3. The Petitioner purchased house No. 663 admeasuring 70 ft East West and 35 ft South North i.e. 2,450 Sq.Ft. at Ladsawangi, vide registered sale deed dated 23rd June, 1972. The Petitioner also purchased house bearing No. 662 with open space admeasuring 40 ft. East West and 38 ft. South North i.e. 1,520 Sq.Ft. at Ladsawangi, vide registered sale deed dated 23rd June, 1972. The Petitioner also purchased house No. 662(B) admeasuring 40 ft. East West and 37 ft. South North which is 1,480 Sq.Ft. at Ladsawangi, vide registered sale deed dated 7th August, 1972 from one Shankar Devrao Mule and one of the attesting witness is

Narsing Vishwanath Lolge.

4. As per the averments in the Petition, the Petitioner's house property Nos. 663, 662 and 662(B) come under the *Gavthan* land of Gram Panchayat. The name of the Church is recorded in extract 8(A). Construction permission was also granted on 30th November, 1973. Earlier, the Primary Health Centre of the Zilla Parishad and staff quarters were constructed in 1964-65 and total area of 93R remained with Narsing Lolge in gut No. 210. House No. 663 was purchased by the petitioner from Narsing Lolge.

5. The Petitioner further avers that an acquisition was done in the year 1964-65 and at that time, the land owned by deceased Narsing Lolge was 93R in gut No. 210. Later, in 1983-84, 11R land was sold by Narsing Lolge to the Village Co-operative Society which is excluded from acquisition. The 7/12 extract filed by Ganesh Narsing Lolge and others before the Land Acquisition Officer, Aurangabad shows that out of 2 Acres 12R, 93R land was owned by deceased Narsing Lolge. In the year 1964-65, the cultivation column indicates that 1 acre of land in the name of the Primary Health Centre and remaining 1 Acre 12R land are shown as uncultivated. The 7/12 extract recorded in 1983-84, shows the name of the Society since the deceased Narsing Lolge sold 11R land to the Village Co-operative Society. Owing to the dispute as to how much land was acquired, the Respondent has started a fresh inquiry though the

land of the Petitioner was never under acquisition. In the land acquisition proceedings, Respondent No. 7 has taken a stand that the property belonging to the Petitioner is not a part of gut No. 210.

6. In the backdrop of disputed questions as the above, a prayer is put-forth that the land of the Petitioner be excluded and acquisition proceedings initiated by the Competent Authority to the extent of the property of the Petitioner, admeasuring 5R and 2R of total space in front of the Church, should be quashed.

7. We do not wish to issue a *Writ of Mandamus* in a matter involving disputes issues. If the land is acquired by following the due procedure of law, no one can take exception to such an acquisition. The land losers will be entitled for compensation. A public project cannot be halted. The Petitioner can reply to the Authority in response to the notice dated 4th September, 2023 issued by the SDO and Land Acquisition Officer, Aurangabad which is assailed in this Petition filed on 7th February, 2024.

8. In view of the above, **this Writ Petition is dismissed.**

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

ssp