



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4004 OF 2024

Baban Bansi Godse ... **Petitioner**
Aged 60 years, R/o Village Chas, Tq. Akole,
Dist. Ahmednagar
Through its Constituted Attorney
Mr. Pravin Bansilal Bhoi

VERSUS

1. The State of Maharashtra,
2. The Special Land Acquisition Officer No.17 ... **Respondents**
District Ahmednagar
3. The District Collector Ahmednagar,
PWD, Behind Govt. Rest House,
Sawli Housing Society, Anand Nagar (E)
Ahmednagar- 415 003

Mr. Pradnyat Chabukswar a/w Ms. Shweta Rathod i/by Elixir Legal Services

Mrs. V. N. Patil-Jadhav, AGP for Respondents/State

**CORAM : RAVINDRA V. GHUGE, &
Y. G. KHOBRADE, JJ.**

DATE : 02.09.2024

JUDGMENT (Per: Y. G. Khobragade, J.)

1. Rule. Rule made returnable forthwith. With the consent of both the sides, the matter is heard finally at the stage of admission.

2. Heard Mr. Pradnyat Chabukswar a/w Ms. Sweta Rathod i/b Elixir Legal Services for the Petitioner, Mrs. V. N. Patil- Jadhav, the learned AGP for the Respondents/State.

3. By the present Petition under Article 226 and 227 of the Constitution of India, the Petitioner prayed for issuance of a Writ of Mandamus directing the Respondents, jointly or severally, to pay compensation as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short' the Act, 2013') for acquisition of his land for percolation tank bearing New Survey Nos. 43/4 and 43/6 (old Survey Nos. 43/2+3B and 43/5 situated at village Chas, Taluka Akola, Distt. Ahmednagar. In the alternative, the Petitioner prayed for appointment of Surveyor to conduct the survey of the aforesaid land to determine how much area of the land has been acquired for the percolation tank.

4. The learned Counsel for the Petitioner canvasses that, on 25th June, 1972, the Petitioner's father purchased the land bearing New Survey Nos. 43/4 and 43/6 (old Survey Nos. 43/2) from the original owner Shri Babu Navji Shelke. The Petitioner's father died on 7th December, 1980. Respondent No. 2 acquired both Survey Nos. 43/2 and 3-B as well as Survey No. 43/5 for the construction of percolation tank. Since the Petitioner is one of the legal heir, his name was mutated with

revenue record vide Mutation Entry No. 1659 along with his two sisters. On 19.12.1980, a Notification under Section 4 of the Land Acquisition Act, 1894 was issued and the Special Land Acquisition Officer passed an Award on 22.09.1986 in respect of the acquired land. However, the Petitioner received the compensation only in respect of 20 Gunthas in respect of land bearing old Survey No. 34/2 and 3 B, though entire land of the Petitioner has been acquired.

5. It is further canvassed that, the Revenue Authority carried Mutation Entry No. 3014 on 19.06.2004 and given new Numbers 43/4 to Old Survey Nos. 43/2 and 3B, whereas new Survey No. 43/6 given to old Survey No. 43/5. On 20.12.2014, the Petitioner's mother and sister relinquished their rights in favour of the Petitioner in respect of Survey No. 43/6. Though, the Respondents have acquired the entire Survey Nos. 43/4 and 45/6 for percolation tank, but the Respondents have paid compensation for only 20 Gunthas land out of Survey No. 43/4 and no compensation has been paid in respect of 42 Gunthas land. Therefore, the Petitioner submitted an application with the Sub-Divisional Officer on 27.04.2022 with a request for payment of compensation, however, no compensation has been paid.

6. Per contra, Mr. Shailesh Shaligram Hinge, the Sub-Divisional Officer Sangamner filed reply affidavit and strongly resisted

claim of the Petitioner. The learned AGP canvassed in vehemence that, as per Notification under Section 4 of the Land Acquisition Act, 1894, 0.25 H.R. land from Survey No. 43/2, has been acquired. The Notice under Section 9 (1 and 2) was published in village Chavdi, so also, notice under Section (3) and (4) of the said Act, duly served upon the Petitioner. However, the Petitioner did not raise objection. Ultimately, on 22.09.1986, the Special Land Acquisition Officer passed an award and determined compensation in respect of 25 R from Old Survey No. 43/2 and paid the same to the Petitioner. But no notification was published under Section 4 of the Act in respect of Land Survey No. 43/5(old) and no such land has been acquired, therefore, the Petitioner is not entitled for the compensation, hence, prayed for dismissal of the Petition.

7. Having regard the submissions canvassed on behalf of both sides, we have gone through the Petition paper book. It is apparent from record that, on 19.12.1980, a Notification under Section 4 of the Land Acquisition Act, 1894 was published for acquisition of land ad-measuring 0.25 H.R. from Survey No. Survey No. 43/2. It is an undisputed fact that on 22.09.1986, the Special Land Acquisition Officer passed an award and determined the compensation in respect of 25 R land from Old Survey No. 43/2 and paid to the Petitioner. The Petitioner himself admitted about receipt of compensation for acquisition of land form Old Survey No. 43/2. Though the Petitioner

contended that, the Respondents have acquired land Old Survey No. 43/5 (New Survey No. 43/6), however, the Respondents specifically denied about acquisition of Old Survey No. 43/5 (New Survey No. 43/6). The petitioner fails to bring substantial material on record to show that, the Respondents have acquired the land from old Survey No. 43/5 (New Survey No. 43/6), therefore, we are not inclined entertain present Petition.

8. In view of above discussion, **this Writ Petition is dismissed.**
Rule is accordingly discharged.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan