



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1689 OF 2024

Hirabai Popat Wadaghule

... Petitioner

Versus

State of Maharashtra & Ors.

... Respondents

Mr. Sumit V. Khaire for the petitioner.

Ms. P.N. Diwan, AGP for the State.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 8 February, 2024

Oral Judgment : (Per G.S. Kulkarni, J.)

1. Rule, made returnable forthwith. Respondents waives service. By consent of the parties, heard finally.
2. We have heard Mr. Khaire, learned counsel for the petitioner and Ms. Diwan, learned AGP.
3. The only prayer as made in the petition reads thus:

“a) This Hon’ble Court be pleased to issue a writ of mandamus or any other appropriate Writ, Order or direction to respondents to delete entry of reservation for the project affected person from other right column of the 7/12 extract of the land bearing Gat No. 317 area admeasuring 01 H 80R situated at village Takali Bhima, Tal. Shirur, Dist. Pune.”
4. The petitioner is the owner of land Gat No. 317 having an area admeasuring 2 H 08 R situated at Village Takali Bima, Taluka Shirur, District

Pune. On 27 May, 1997, respondent no. 2 passed an order in regard to the acquisition of land for Chaskaman Dam Project. In pursuance of such order, mutation entry no. 1294 dated 28 May, 1997 came to be made in the other right column of the 7/12 extract of the petitioner's land to the effect "Reserved for Rehabilitation".

5. The case of the petitioner is that respondent no. 2 did not issue any notification under section 4 of the Land Acquisition Act, 1884 *inter alia* to acquire the said land for rehabilitation of the project affected persons. It is the case of the petitioner that as such lands were not being acquired, Writ Petition No. 5683 of 2021 along with batch of petitions came to be filed in this Court raising concerns that although entries in the revenue record are made, no action was taken to acquire the said land. It is in such context, the co-ordinate Bench of this Court passed an order dated 2 March, 2022 issuing the following directions to complete the process of allotment to the project affected persons within six months as also *inter alia* directing that the State Government shall initiate the acquisition proceedings under the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 1999 within six months. The operative portion of the said order needs to be noted, which reads thus:

4. After hearing the parties including the State Government, the parties have agreed as under :-

a) The State Government will complete the process of allotting the lands of the petitioners whose lands are declared in benefit zone for allotment and yet to be allotted to the project affected persons. The

State Government has agreed that the process would be completed within six months from today, without fail.

b) It is agreed by and between the parties that if the allotment of land is not issued to the project affected persons for allotment of the lands falling under benefit zone, which are the subject matter of these petitions, the mutation entries effected in the 7/12 extracts towards reservation for project affected persons to be deleted without further reference to the Court within two weeks from the date of expiry of six months. Both the parties have agreed that there would be no extension of time to allot the plots earmarked under the benefit zone to the project affected persons.

c) If the entire process for allotment of land is not over within a period of six months from today, the petitioners whose lands have been placed under the benefit zone, would be at liberty to deal with their plots in the manner they desire. The State Government shall not initiate any acquisition proceedings in respect of these plots after expiry of six months in that event.

d) If these plots which are made subject matter of the notification under section 11 of the Maharashtra Project Affected Persons Rehabilitation Act, 1976, Maharashtra Project Affected Persons Rehabilitation Act, 1986, or Maharashtra Project Affected Persons Rehabilitation Act, 1999 are allotted to Project Affected Persons before expiry of six months, the State Government to initiate acquisition proceedings under the provisions of Maharashtra Project Affected Persons Rehabilitation Act, 2013 expeditiously and to conclude the same in accordance with the provisions of the said Act. The petitioners shall be informed about the allotment of lands in favour of the project affected persons and / or about proposal of the State Government to acquire the lands in case of those lands which are not allotted to the project affected persons within two weeks from the date of expiry of six months.

e) If the lands though allotted to the project affected persons but the proceedings for acquisition are not initiated within a period of six months from today, even in that event the notification issued under section 11 of the Maharashtra Project Affected Persons Rehabilitation Act, to stand deleted.

f) It is made clear that within a period of two weeks from today, the lands of these petitioners who have impugned the notification under section 11 of the Maharashtra Project Affected Persons Rehabilitation Act would be notified by public notice to the members of public more particularly for the benefit of the project affected persons for their information and for application, if any, for allotment of any particular land in this zone. The aforesaid period of six months will commence after expiry of two weeks from today. The notices shall be issued in accordance with the prescribed procedure for the purpose of information of the project affected persons as well as the persons

whose lands are notified under section 11 of the Project Affected Persons Rehabilitation Act. Insofar as these cases are concerned, it is made clear that the Government Resolution dated 18th January, 2022 and 11th February, 2022 shall be read with this order.

g) It is made clear that the time prescribed in the aforesaid order is by consent of both the parties and would not be subject to any extension in any circumstances.

h) All the writ petitions are disposed of in aforesaid terms. There shall be no order as to costs.

i) All parties to act on the authenticated copy of this order.”

(emphasis supplied)

6. Admittedly, despite the directions as made in para (a) and (d) of the aforesaid order passed by this Court, no action was taken by the respondents within the period as directed and despite this, the mutation entry to the prejudice of the petitioner has continued to operate.

7. Ms. Diwan, learned AGP, on instructions, states that there is no intention of the Government to acquire the land and merely for the reason that the approval to the proposal of the Commissioner in that regard is pending before the State Government, there is delay in deleting the mutation entry as objected by the petitioner. She submitted that appropriate decision can be taken by the State Government to delete the entry.

8. Learned counsel for the petitioner has also drawn our attention to an order dated 5 July, 2023 passed by the co-ordinate Bench of this Court, of which one of us (G.S. Kulkarni, J.) is a member in Writ Petition No. 8010 of 2023, wherein in similar circumstances, the Court had disposed of the petition

with a direction to the respondents to take appropriate action within a period of ten weeks from the date of the order in respect of the deletion of entries from the revenue record.

9. In the aforesaid circumstances, in our opinion, this is a clear case where the land acquisition in regard to the petitioner's land itself is not contemplated as also the time period as directed by this Court to acquire the land had lapsed, however, learned AGP has also made a clear statement that the land would not be subjected to any future acquisition. In this view of the matter, we are inclined to allow this petition by granting the prayer in terms of prayer clause (a). Necessary deletion be carried out within a period of six weeks from today.

10. Writ Petition stands allowed in the aforesaid terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)