

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 16428 OF 2023

Balu Namdeo Pavale

... Petitioner

Versus

The State of Maharashtra & Ors.

... Respondents

Mr. Amey Sawant a/w Mr. Pratik Sabrad, for the Petitioner.

Ms. P. J. Gavhane, AGP for State.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 21 FEBRUARY, 2024

P.C.

1. Heard learned counsel for the petitioner and Ms. Gavhane, learned AGP for the respondents.
2. The only substantive prayer as made in the present petition is prayer clause "b" which reads thus:

"b) by an appropriate writ, order or direction, this Hon'ble Court be pleased to direct the Respondent No.3 to direct his officers to delete the entries of restrictions imposed vide Mutation Entry No.1307 (wrongly mentioned as Mutation Entry No.1331) dated 29.03.1991 and subsequently vide Mutation Entry No.5557 dated 12.03.2022 from the other rights column of the 7/12 extract of the land admeasuring 57 Ares from land bearing Survey No.37/4, situated at Mouje Kasarsai, Taluka Mulshi, District Pune as per the directions contained in the Judgment and Order dated 03.01.2023, passed in Writ Petition No.15822 of 2022;"

3. The case of the petitioner is that the petitioner's land Survey No.37/4, admeasuring 1 Hectare 77 Ares, situated at Village Kasarsai Taluka Mulshi,

District Pune, was notified for acquisition for the Kasarsai Project in the year 1991 along with several other lands.

4. In pursuance thereto, mutation entry No.1307 was made in the Revenue Records on 29 March 1991 (wrongly mentioned as Mutation Entry No.1331) which was in the other rights column, indicating that the land would be acquired for the said project. The consequence of such mutation entry was that, restrictions were effected and the petitioner could not deal with his land. Such position has continued to exist from the year 1991 till date. The State Government has taken a decision not to acquire the petitioner's land.

5. For removal of the said revenue entry, the petitioner had approached the revenue authorities from time to time. Also, on 11 February 2022, the Government had published a Government Resolution so as to have a mechanism to correct the mutation entries made in respect of lands, which were initially reserved for public projects and which were not being acquired.

6. Be that as it may, the grievance of the petitioner is that such mutation entries cannot be continued in perpetuity, when there is no decision to acquire the land, and it is for such reason the mutation entry in question ought to be deleted. Our attention is drawn to similar orders passed by this Court whereby, this Court had directed the State Government to delete such entries, reference in such context is made to a recent order passed by this Court in the

proceedings of Writ Petition No.8010 of 2023, whereby referring to similar orders (Order dated 2 March 2023 passed on Writ Petition No.5185 of 2021 Namdeo Mahadu Waghmore Vs. State of Maharashtra & Ors.), the Court had disposed of the petition, directing the respondents to take appropriate action within a period of 10 weeks for deletion of the mutation entries indicating in the land being acquired for the irrigation project.

7. Insofar as this petition is concerned, we had adjourned the proceedings on 24 January 2024 to 31 January 2024, to enable the learned AGP to take instructions. Again the proceedings were adjourned to 7 February 2024, however, today, Ms. Gavhane is before the Court to submit that instructions could not be received. It is her contention that in fact for deletion of the mutation entry as desired by the petitioner the approval of the State Government would be awaited.

8. In our opinion, the proceedings are certainly covered by similar orders passed in other cases where the Court had directed for removal of mutation entries as the lands were no more required to be acquired for the irrigation projects.

9. In any event, such revenue entries in the other rights column cannot remain in perpetuity, when no action itself is being taken in the present case, for almost 30 years to acquire the land. The property rights of the petitioner as guaranteed under the law are certainly being affected and adversely by such

action on the part of the respondents.

10. In the aforesaid circumstances, the petition needs to succeed, it is accordingly disposed of by directing the respondent to take appropriate action within a period of eight weeks from today to delete the entries of reservation from the revenue records, namely, deletion of mutation entry No.1307 and subsequent mutation entry No.5557 dated 12 March 2022 inserted in pursuance of G.R. dated 11 February 2022.

11. Disposed of in the above terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)