Ashvini Narwade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDITION
WRIT PETITION NO.15278 OF 2023

Pandharinath Eknath Chavan … Petitioner

Versus

Gavkamgar Talathi, Nimgaon Mhalungi & Ors. …Respondents

None for the Petitioner.
Mr. Kedar Dighe, Addl. G. P. a/w. Ms. P. N. Diwan, AGP for Respondent-State.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 22nd FEBRUARY, 2024

P.C.

1. None for the Petitioner.

2. The only relief as prayed for in Petition is as set out in prayer clause (a) which reads thus:-

> "*(a) this Hon'ble Court may, by way of appropriate writ Order or direction, direct the Respondents to forthwith delete the entries of reservation from revenue record (8-A Form) of the land Gat No.250, admeasuring 1 H 20 R, situated at village Nimgaon Mhalungi, Tal. Shirur, Dist. Pune reserved for the rehabilitation of the persons affected by the Chaskaman Irrgiation Project;*"

3. The case of the Petitioner is that the land belonging to the Petitioner, namely, Gat No.250, admeasuring 1 H 20 Are situated at village Nimgaon, Mhalungi, Tal. Shirur, Dist. Pune, falls in the benefitted zone of the Chaskaman Irrigation Project Project. Sometime in 1979 a notification was issued to acquire the land. The acquisition was not taken forward and admittedly, the land of the Petitioner has not been acquired.

4. However, according to the Petitioner, inadvertently the revenue authorities have made a remark, not in the 7/12 extracts, but in a register known as "K Patrak", annexed at Exhibit-B (page 22 of the Petition), to the effect that the land of the Petitioner is eligible for acquisition. According to the Petitioner, such entry appears to have been inadvertently made. Thus, although there is no remark in regard to the acquisition in the 7/12 extract, the said remark in the "K Patrak" has continued to operate, which is the cause of action for the Petitioner to approach this Court.

5. In pursuance of our orders, reply affidavit on behalf of Respondent No.6 of Shri. Ajay More, Additional Collector, Pune is placed on record, in which he states that the Petitioner should approach the Committee constituted under the Government Resolution dated 18th January 2022, which can examine the grievance of the Petitioner. However, what has been stated in paragraphs 4 and 5 is required to be noted and reads thus:-

> *"4. I say that it appears from the record that, there is a notification u/s 4 of the Land Acquisition Act, 1894 published in respect of the land in question and the land was notified in the said notification. However the Form 8 -A of the subject land, does not shows any entry as, "Reserved for the project affected persons".Hence the above notification is not applicable to the subject land.*
>
> *5. I respectfully say and submit that, after going through the record, it has been found that, there is no entry shown in the other right column of the subject land, no question arises to delete the entries of reservation from revenue record (8-A Form) of the land as prayed by the petitioner. The petitioner is relied upon the K Patrak (Exhibt B) mentioning the same as 8 A wherein the eligible slab area of the notified land owned by the*

petitioner is mentioned. However, K Patrak does not mentioned that there is a restriction to transfer the said land."

6. We may also observe that earlier similar issues were raised before this Court in many proceedings. This Court, having considered the fact that the land was not the subject matter of acquisition for a longtime, held that the revenue entries cannot continue to operate. We may refer to one of such order being an order dated 5th July 2023 passed in the case of **Dadabhau Ramdas Ransing & Ors. Vs. Gavkamgar Talathi & Ors.** (Writ Petition No.8010 of 2023) wherein similar issue was raised. This Court allowed the Writ Petition directing the Respondents to remove the entries made in the revenue records in relation to the acquisition. The present case is also a case where the acquisition under the notification issued about 45 years back was not taken forward and/or has lapsed, hence any revenue entry made under such acquisition cannot continue to remain at the prejudice of the Petitioner.

7. In the aforesaid circumstances, as also clearly set out in paragraphs 4 and 5 of the reply affidavit filed on behalf of Respondent No.6, the Petition needs to succeed. It is accordingly allowed in terms of prayer clause (a) of the Petition. Necessary action in that regard be taken within six weeks from the date a copy of this order is presented before the concerned officer.

8. Learned AGP shall also inform the concerned officer of the said orders.

9. Parties to act on and authenticated copy of this Order.

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

(FIRDOSH P. POONIWALLA, J.) (G. S. KULKARNI, J.)