

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2563 OF 2020

Shri. Vasant Janardan Koli @ Patil And Ors ...Petitioners

Versus

City And Industrial Development Corporation
(Maharashtra) Ltd. And Ors ...Respondents

YUGANDHARA
SHARAD
PATIL

Digitally signed
by
YUGANDHARA
SHARAD PATIL.
Date:
2024.01.09
19:44:27 +0530

.....

Mr. Jitendra C. Patil, for Petitioner.

Mr. Ashutosh M. Kulkarni a/w Akshay R. Kulkarni for Respondent
Nos. 1 to 3(CIDCO).

Mr. S.B. Kalel AGP for Respondent Nos. 4 to 6 and 11.

Mr. Mohamedali M. Chunawala with Samiksha Kanani for Respon-
dent No. 7- Union of India.

.....

**CORAM : NITIN JAMDAR &
M.M.SATHAYE, JJ.**

DATE : 3 JANUARY 2024

P.C.:

. Heard the learned counsel for the Parties. The Petitioners claiming to be heirs of one Dukalya Dhulya Koli, as tenants of agricultural land situated within the limits of Respondent/CIDCO, filed this Writ Petition on 21 December 2019 seeking to quash and set aside the Award dated 9 June 1986 passed by the Special Land Acquisition Officer. By this Award, the subject property was acquired for the purpose of Respondent/CIDCO. Considering the laches involved the Petitioners have not pressed this prayer but have sought, as can be gathered from oral arguments,

benefit of a scheme of Respondent/CIDCO for allotment of plots under 12.5% scheme.

2. According to the Petitioner, the allotment was done on 8 July 2008, however the plot was not handed over because the Respondent /CIDCO called upon cogent proof of being a deemed purchaser by way of a certificate issued under section 32M of The Bombay Tenancy and Agricultural Lands Act, 1948. In the reply affidavit, Respondent/CIDCO has justified their stand stating that unless there is certainty regarding ownership, Respondent/CIDCO would be justified in not handing over possession to a particular party to avoid further litigation.

3. During the pendency of the Petition, Petitioners have produced a copy of certificate issued under Section 32M of the Bombay Tenancy Act. The Petitioners rely upon this certificate. Learned counsel for the Respondent/CIDCO submits that bare perusal of the certificate would indicate that it does not assist the Petitioners as names are different.

4. This aspect as to whether the certificate is in respect of the Petitioners or not need not to be considered at first instance in this Writ Petition. The certificate is produced on record during the pendency of the Writ Petition. We are not prepared to accept the absolute contention of the Petitioners that the Respondent/CIDCO has no right whatsoever to call upon the Petitioners to produce

certificate showing his right, title, and interest in the property. Be that as it may, since now the Petitioners have placed the copy of certificate stating to be in favour of the Petitioners on record, the proper course of action would be to permit the Petitioners to file the application annexing certificate for the possession of the plot in question and to direct the Respondent/CIDCO to examine the same and thereupon proceed to take necessary action regarding handing over the possession.

5. Accordingly, after the Petitioners make an application within a period of 4 weeks annexing 32M certificate to the Respondent/CIDCO who will, after completion of all procedural, and clerical compliance, will take a decision thereupon within a period of 6 weeks. Needless to state, if the Respondent/CIDCO is satisfied that the certificate is in favour of the Petitioners, it should proceed to issue necessary further directions after complying the legal formalities. In the otherwise situation, the order of the Respondent/CIDCO will be a reasoned order.

6. Writ Petition is accordingly disposed of.

(M.M.SATHAYE, J.)

(NITIN JAMDAR, J.)