

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4804 OF 2024

Ananta Savalaram Todekar

... Petitioner

Versus

The Collector of Raigad District and Ors.

... Respondents

Mr. Pravin V. Desai, for the Petitioner.

Mrs. M. S. Bane, AGP, for the Respondent-State.

**CORAM: G. S. KULKARNI &
FIRDOSH P. POONTWALLA, JJ.**

DATED: 10 OCTOBER 2024

P.C.

1. Rule. Rule made returnable forthwith. Respondents waive service.

By consent of the parties, the Petition is taken up for final disposal.

2. We have heard Mr. Desai, learned counsel for the Petitioner and Mrs. Bane, learned AGP for the Respondents.

3. This Petition under Article 226 of the Constitution of India is filed praying for the following substantive relief under prayer Clause (a):

“a. This Hon'ble Court may please to issue writ in the nature of mandamus or any other writ in the nature of mandamus thereby directing the Respondent Nos.1, 2, 3 and 4 to forthwith clear / remove the impugned entry/noting of acquisition from Other Rights column of 7/12 extract and other revenue records of the Suit Land of the Petitioner being Gut No.20, Hissa No. 1B, area admeasuring 0.38.4 H.R. in Village Padhage, Taluka Panvel, revenue District Raigad, within jurisdiction of Talathi Saja Pale Budruk;”

4. The case of the Petitioner is that the land of the Petitioner as described in the memo of the Petition as also in the prayer clause (as noted above) was intended to be acquired in the year 1970 for the Navi Mumbai project. In regard to such intention of acquisition of the Petitioner's land in the other rights column of the 7/12 extract qua such land, a remark was made referring to such acquisition notification dated 3.02.1997. It is Petitioner's case that a notification under Section 6 of the Land Acquisition Act, 1894 [for short "the Act"] was published on 20th May 1976. However, as per the provisions of Section 11 A, within a period of two years of the declaration under Section 6 no award was declared. Accordingly, the acquisition qua the Petitioner's land lapsed in terms of the said provision.

5. It is the Petitioner's case that however such entry as made in the revenue record on the basis of the intention of acquisition and/or the Section 6 notification that such land was intended to be acquired, continued to remain in the other rights column in the 7/12 extract of the said land. The Petitioner being aggrieved by the same, made several representations before different authorities for such entry to be deleted. Respondent No.2, the Special Land Acquisition Officer by its communication dated 14th January 2019, referring to the declaration under Section 6 dated 20th May 1976, informed the Petitioner that on the request made by the Petitioner, appropriate instructions would be obtained from the City and Industrial Development Corporation of Maharashtra Limited [for short "CIDCO"] being the acquiring body. However, this was oblivious of the legal effect which has already occurred qua the acquisition which itself had lapsed considering the substantive provisions of Section 11 A of the Act, that is the award not being declared within two years of the Section 6 declaration or for that matter never published.

6. In such circumstances, the Petitioner issued legal notices to the Respondents that the entry made in the revenue record cannot subsist, in the

absence of a land acquisition award being made and the same is required to be deleted. However, as the Petitioner's request was not being considered by the Respondents, the present Petition was filed.

7. In pursuance of the Courts order, reply affidavits on behalf of the Respondents are filed. There is a reply affidavit dated 9th October 2024 of the Deputy Collector (Land acquisition) Metro Centre No. 3, Panvel District- Raigad Shri Dattatray Navale/Respondent No.2 [the Special Land Acquisition Officer]. In his affidavit, Shri Dattatray Navale has stated that on obtaining information, it is seen from the records that no final award under Section 11 was passed. Relevant averments as made in the affidavit are required to be noted which reads thus:

“2. I say that, Petitioner above named has filed the Petition seeking relief that Respondent Nos. 1 to 4, be directed to forthwith clear/remove the impugned entry/noting of acquisition from Other Rights column of 7/12 extract and other revenue records of the Suit Land of the Petitioner being Gut No.20, Hissa No. 1B, area admeasuring 0.38.4 H.R. in Village Padhage, Taluka Panvel, revenue District Raigad, within jurisdiction of Talathi Saja Pale Budruk.

3. I say that the land bearing Survey No. 20/1b/ from Village Padaghe, Tal. Panvel is appearing to be in the name of the one Mr. Anant Savlaram Todekar. I say that the pursuant to information issued by the Divisional Commissioner, Konkan Division, Mumbai, the remark have been entered in the Village form i.e., 7/12 extract in Other Right Column "for acquisition". I say that, upon perusal of the record from my office, the notice under Section 6, appears to have been issued on 20.05.1976. However, from the record, no official award under Section 11 is found in the record of this office.”

(emphasis supplied)

8. The second affidavit is of Shri Jitendra Ingale, working as Tahsildar, Panvel, District- Raigad dated 8th October 2024, who has stated that in so far as the relief as prayed by the Petitioner, the competent authority would be the Special Land Acquisition Officer that is Respondent No.2. He states

that appropriate action would be taken to delete the objections and entries qua the Petitioner's land, if it is being so ordered.

9. Learned counsel for the Petitioner submits that in the aforesaid circumstances, this is a clear case where the acquisition itself has lapsed and consequently the entry notifying the land for acquisition cannot continue and much less for such unreasonably long period of 53 years, as this has caused a fetter on the Petitioner's right to enjoy his land. It is his submission that the inaction on the part of the Respondents is violative of the Petitioner's right guaranteed under Article 300A of the Constitution. In support of his contentions, learned counsel for the Petitioner relied on several orders passed by this Court involving similar issues, wherein there was no award and the Court directed the authorities to delete the revenue entries. We note one of the orders passed by this Court in *Dadabhau Ramdas Ransing & Ors. vs. Gavkamgar Talathi, Sajja Nimgaon Mhalungi & Ors.*¹ The said order reads:

1. "Heard Mr. Deshpande, learned counsel for the petitioners and Mr. Pawar, learned AGP for the respondents.
2. The only prayer as made in the present proceedings 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 of the land Gat No. 36, area admeasuring 3 H 42R, situated at village Nimgaon Mhalungi, Tal. Shirur, Dist. Pune."
3. Mr. Deshpande has drawn our attention to an order dated 2 March, 2022 passed by a co-ordinate Bench of this Court on a batch of petitions (Writ Petition No. 5185 of 2021- Namdeo M. Waghmore vs. The State of Maharashtra & Ors. and other Petitions). He submits that the grievance of the petitioners can be redressed if similar orders are passed. Mr. Deshpande has also drawn our attention to another order dated 18 January, 2023 passed by a co-ordinate Bench of this Court in Writ Petition No. 8623 of 2021 in case of Ankush Bapurao Thakur vs. The Deputy Collector Resettlement, Pune & Ors., to submit that in view of the said order passed by this Court, the respondents in the present case also need

¹ Writ Petition No. 8010 of 2023 decided on 5th July 2023.

to delete entries of reservation from the revenue record in respect of the land in question.

4. Mr. Pawar, learned AGP would also not disagree that similar orders are passed by the Court as noted above.
5. We, accordingly, dispose of this petition with a direction to the respondents to take appropriate action within a period of ten weeks from today in respect of the prayer of the petitioners for deletion of entries of reservation from the revenue record. All contentions of the parties are expressly kept open.
6. Disposed of in the above terms. No costs.”

10. In the aforesaid circumstances we find much substance in the contentions as urged on behalf of the Petitioner. Also as there is no dispute whatsoever that the land acquisition itself has lapsed, the Petitioner would be correct in his contention that the revenue entry in the revenue record cannot be permitted to continue. The Petition is accordingly required to be allowed. It is allowed in terms of prayer clause (a).

11. Necessary action in this regard be taken within a period of four weeks from today and compliance of the same be reported by the learned Government Pleader to the Registrar Judicial to be placed on the present records and proceedings.

12. Rule is made absolute in the aforesaid terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)