

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4805 OF 2024

Gulam Laxman Mhatre ...Petitioner
Versus
State of Maharashtra Thr. Department of
Rehabilitation & Ors. ...Respondents

Mr. Prashant Kulkarni a/w Rachna Mamnani for Petitioner.
Ms. S. S. Bhende, AGP for State.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.

DATED: 17 OCTOBER 2024

P.C.

1. We have heard Ms. Mamnani, learned counsel for the petitioner and Ms. Bhende, learned AGP for respondent / State.
2. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

“a) To issue Rule and call for record and proceedings.

b) that this Hon'ble Court may be pleased to issue appropriate Writ and/or direction and/or order under Article 226 of the constitution of India, to quash and set aside letter/order dated 19th January 2024 issued by the Respondent No.3;

c) that this Hon'ble Court may be pleased to issue appropriate Writ and/or direction and/or order under Article 226 of the constitution of India, to direct the Respondents to pay compensation as per the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

d) that this Hon'ble Court may be pleased to issue appropriate Writ and/or direction and/or order under articles 226 and 227 of the constitution of India, whereby directing the Respondent no.1 to decide the representations dated 21st August 2023 and 28th August filed by the petitioner and pass order on the said representations;

e) That the pending the hearing and final disposal of this petition the execution, operation and effect of the impugned letter dated 19th January 2024 be stayed.

f) that the Respondents be ordered to pay to the Petitioners the cost of this Petition;

g) for such further and other reliefs as the nature and circumstances of the case may require.”

3. At the outset, learned counsel for the petitioner has not disputed that the land which is sought to be now taken over for the purpose of the Bullet Train Project is the land belonging to the Government. It is also not in dispute that the petitioner is an encroacher on such Government land who has constructed a structure.

4. From what has been pointed out that as a one time measure the State Government, as a matter of policy decided to compensate such encroachers by paying Rs.14,17,000/-. The communication to that effect containing such policy is annexed at **Exhibit – C**, being a letter of the Collector to the Principal Secretary, Rehabilitation Mantralaya, Mumbai.

5. It is in pursuance of such policy, the petitioner by letter dated 19 January 2024 was called upon to accept Rs. 14,17,000/-. Such letter of the District Collector is annexed at **Exhibit – E**. The petitioner however did not accept the said amount and filed this petition.

6. The case of the petitioner is that the petitioner is entitled to be compensated at a higher amount as the other land owners on adjoining areas are being compensated, who are in fact the owners of the land and not similarly placed as the petitioner who is an encroacher on the Government land.

7. In these circumstances, we called upon the petitioner to point out as to whether any provision under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 would support such contentions of the petitioner to recognize a legal right of the encroachers on the Government land to be entitled for compensation. Responding to our query learned counsel for the petitioner is not in a position to point out any provisions which would guarantee any form of compensation to be paid to the encroachers and that too at the market rate as if they are the owners of the land.

8. Be that as it may, it appears to us that a representation is addressed by the petitioner dated 25 July 2022 which appears to be made prior to the policy dated 21 November 2022 which has remained pending where the petitioner is asking for compensation as per market rate. Such representation is pending.

9. We do not find that it would possible for us to grant any relief to the petitioner, as prayed for, suffice it to observe that the said representation of

the petitioner be considered by respondent No.3 and decided in accordance with law.

10. All contentions of the petitioner on the representation are kept open.

11. We, however, clarify that while issuing such directions, we have not delved on the issue of the legal rights of the petitioner qua such policy of the State Government nor we have recognized any legal right of the petitioner otherwise.

12. Petition stands disposed of in the aforesaid terms. No costs.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)