

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5642 OF 2024

Ashdan Township Ventures Private Limited ... Petitioner

Versus

1. The State of Maharashtra
& 3 Ors. ... Respondents

Mr. Suresh M. Sabrad a/w. Mr. Amey C. Sawant, for petitioner.

Mr. A.I. Patel, Addl. G.P. a/w. Ms. P.J. Gavhane, AGP for respondent Nos.1 to 4.

CORAM: G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

Date : August 30, 2024

P C :

1. We have heard learned counsel for the parties.
2. The substantive prayer as made in the petition pertains to deletion of the entry in the revenue records which bears the name of the State Government on the ground that the land was reserved for acquisition for Kasarsai Right Canal Vitarika Project. It is stated that such mutation entry No. 5750 in the revenue records has continued to exist since 10 April, 2006, which is notwithstanding the fact that no steps are being taken to acquire such land in question for such project.

3. In these circumstances, the petitioner has approached this Court praying for the following substantive relief :

(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 entire of restrictions imposed vide Mutation Entry No. 5750 dated 10.04.2006 from the other rights column of the 7/12 extract of the land bearing Survey No. 50/2/A, admeasuring 49.50 Ares and Survey No. 50/1/A, admeasuring 50 Ares, both situated at Village Manna, Taluka Mulshi, District Pune.

4. Learned counsel for the petitioner has drawn our attention to the similar orders passed by this Court in the cases of (i) Ananda Kashinath Shukhla Vs. State of Maharashtra & Ors.¹; (ii) Dilip Ramanlal Thacker Vs. The Divisional Commissioner, Pune & Ors.²; and (iii) Balu Namdeo Pavale Vs. State of Maharashtra & Ors.³

5. A reply affidavit on behalf of the State Government of Shri Sunil Gajanan Gadhe, Deputy Collector, Land Acquisition No. 22, Pune is placed on record, in which, in paragraphs 5 and 6, it is stated that the respondents do not wish to acquire the land from Village Maan, Taluka Mulashi, Dist. Pune. The following are the averments as made in paragraphs 5 and 6 of the reply affidavit read thus :

5 Further I say that, after receiving an application by one of the land owner Shree Parag Shripatirao Mate from Maan, Tq. -Mulashi, Dist.-Shirur for deletion of the entries of reservation for Kasarsai Right Canal Vitarika Project from other right column of 7/12 Extract, this Respondent No.2 issued a letter dated 07/08/2018 asking Executive Engineer, Bhama

¹ Writ Petition No. 5763 of 2024 & connected petitions dated August 14, 2019.

² Writ Petition No. 8754 of 2019 dated August 21, 2019

³ Writ Petition No. 16428 of 2023 dated February 21, 2024

Asakhed Project whether his office wants to acquire the lands or not for Kasarsai Right Canal Vitarika Project. Replying the same Executive Engineer, Bhama Asakhed Project informed the Respondent no.2 through a letter dated 06/09/2018 that there is a vast civilization and development after foundation of Rajiv Gandhi Information Technology Park and MIDC and villagers have opposed the Kasarsai Right Canal Vitarika Project. Also the valuation of the said lands from Maan, Tq. - Mulashi, Dist. - Pune is so high that the Bhama Asakhed Project need extra 78 Core amount of compensation. Also Executive Engineer, Bhama Asakhed Project informs that, with above reasons his office does not want to acquire the lands from Village Maan, Tq. Mulashi, Dist.-Pune and the Respondent No.2 shall take decision on its level.

6 Further I say that, the Collector Pune has asked Chief Engineer, Irrigation Department to submit a Report in view of the order dated 30/08/2020 passed by the Hon'ble High Court in WP No. 8754/2019 regarding the deletion of Mutation Entries entered in the other rights column of 7/12 extract as acquired area for Kasarsai Right Canal Vitarika. Accordingly, Chief Engineer, Irrigation Department has submitted a Report dated 01/02/2023 to the Collector Pune, in which they have clearly mentioned that due to vast industrilization and civilization in Village Maan Tq. - Mulashi, Dist.- Pune, benefitted area has been decreased and need for irrigation through canal has been reduced immensely. Moreover, canal and their sub-lines have been damaged due to its non-functionality. And there is a rare possibility of local farmers' demand for water irrigation. Therefore, there is no need of acquisition of the lands from Village Maan, Tq.-Mulashi, Dist.- Pune for the vitarika No. 7,8,9 and 10 in view of non-availability of benefitted zone. Same is annexed and marked as Exhibit No.1 to the Affidavit in Reply.

6. In view of the aforesaid clear stand taken by the respondents, there is no warrant for the impugned revenue entry to continue to operate, depicting the land being reserved for Kasarsai Right Canal Vitarika Project.

7. In this view of the matter, the petition would be required to be allowed. It is accordingly allowed in terms of prayer clause (b). Let appropriate steps in this regard be taken within a period of six weeks from the date a copy of the order is presented before the competent authority.

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

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)