



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7480 OF 2024

Rajaram Vishnu Patil & Anr.

... Petitioners

vs.

The State of Maharashtra, through Addl. Chief
Secretary, Revenue and Forest Dept., Mumbai & Ors.

... Respondents

Mr. Yuvraj S. Gharat for the petitioners.

Mr. Akshay P. Shinde, 'B' Panel Counsel a/w. Ms. M.S. Bane, AGP for the
State.

Mr. Sachin Gite for respondent no. 6.

CORAM: G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.
DATED: 23 August, 2024

P.C.

1. We have heard learned counsel for the parties.
2. The prayers as made in this petition are required to be noted, which
reads thus:

“b) This Hon’ble Court be pleased to issue writ of mandamus or any other appropriate writ in the nature of writ of mandamus and be pleased to hold and declare that the Notification issued on 07.09.2023 is illegal and perverse and the order dated 24.11.2023 deserves to be quashed and set aside.

c) By a suitable Writ, Order or direction, this Hon’ble Court be pleased to direct the respondents to issue a fresh notification by considering the objections of the petitioners and include the House property bearing assessment nos. 652 and 652/1 of the petitioners which are affected by the said Distribution canal.”

3. The primary grievance of the petitioners is to the effect that the Land Acquisition Officer has not adhered to the provisions of Section 4 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “**2013 Act**”) in undertaking survey of the petitioners land subject matter of acquisition. The grievance made by the petitioners is that the land subject matter of acquisition includes acquisition of the house belonging to the petitioners, which according to him is required to be taken into consideration in publishing a land acquisition award qua the petitioner’s land. Their grievance is also that the survey which was undertaken and being relied upon so as to form the basis of the award is the survey undertaken in the year 2011 and the notice under section 11 of the Land Acquisition Act was issued on 7 September, 2023. It is hence the petitioners contention that such survey cannot be considered/resorted to deny the benefit of compensation in respect of the house property of the petitioners standing on the land in question.

4. On behalf of respondent no. 6, Mr. Sanjay N. Patil, Assistant Engineer Grade-I has filed reply affidavit to *inter alia* contend that the petition has become infructuous, as an award dated 21 May, 2024 has already been published, hence the petitioners have an alternate remedy to raise a grievance against the award by approaching the authority as per the provisions of Section 64 of the 2013 Act.

5. However, Mr. Gite, learned counsel for respondent no. 6, on instructions of the officer who is present in the Court, has made a statement that insofar as the acquisition of the petitioner's land is concerned as also in the context of the award as rendered, the house of the petitioners is not the subject matter of acquisition. He states that respondent no. 6 shall not disturb the house of the petitioners and the portion of the land on which the house stands. Statement of Mr. Gite is accepted. In this view of the matter, the apprehension of the petitioners that the house along with the land was subject matter of acquisition or the same was required to be taken into consideration for the acquisition need not bother the petitioners.

6. If what is stated by Mr. Gite is the correct position and as confirmed by Mr. Shinde, learned counsel for respondent nos. 1 to 5, in that case, the petitioners ought not to have any apprehension of the house not forming part of any consideration in the award dated 21 May, 2024. In this view of the matter, further adjudication of the petition is also not called for. We, accordingly, dispose of the petition by the following order:

ORDER

- (i) We accept the statement as made on behalf of the respondents by Mr. Gite that the house property of the petitioners along with land

situated at Gat No. 100 is not subject matter of acquisition and which shall not be in any manner disturbed.

(ii) In the event, the petitioners are aggrieved by the award dated 21 May, 2024, they are free to file appropriate proceedings by taking recourse to the statutory remedy as available in law.

(iii) We also direct that in respect of the project work being undertaken, precautions be taken so that the petitioners are not adversely affected and they are not deprived of enjoyment of their house. No damage shall be caused to the house of the petitioners as also an appropriate buffer zone be maintained with all safety measures and by constructing a protection wall in undertaking the public project.

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

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)