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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10401 OF 2024

Jayantilal Pachan Patel & Ors.

..Petitioners

Vs.

The State of Maharashtra & Ors.

...Respondents

Mr. Sumit V. Khaire, for the Petitioners.

Mr. Rajan S. Pawar, AGP for the State.

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

DATED: 23 August, 2024

P.C.

1. We have heard Mr. Khaire, learned Counsel appearing for the petitioners and Mr. Pawar, learned AGP appearing for the respondent – State.
2. Reply affidavit on behalf of the State of Smt. Sneha Kisce-Deokate, Sub-Divisional Officer, Sub-Division Pune, District Pune, is placed on record.
3. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

(a) This Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate Writ, Order or direction to Respondents to acquire land of the Petitioner Gat No.1249/3, New Gat No.546/3 area admeasuring 00 h 60 R situated at Village Shikrapur, Tal-Shirur, Dist-Pune & thereafter record name as Pazar Talav.

(b) This Hon'ble Court be pleased to issue a writ of certiorari or any other appropriate Writ, Order or direction to quash & set aside order dated 20/2/2024 passed by the Respondent No.3.

(c) Pending hearing & final disposal of the present Writ Petition this Hon'ble Court be pleased to stay the order dated 20/2/2024 passed by Respondent No.3.

(d) Ad-interim in terms of prayer clauses (c) may kindly be granted."

4. After the proceedings were heard for some time, Mr. Khaire, learned Counsel appearing for the petitioners fairly states that in the impugned order dated 20 February 2024 passed by the Sub-Divisional Officer, in paragraph 3 of the operative order, an enquiry by the Tahasildar is directed in regard to revenue entries in respect of the land in question, being land Gat No.546/3 situated at Shikrapur, Taluka Shirur, Dist. Pune. The Sub-Divisional Officer has also observed that the land in question is under a reservoir. If this is to be the correct position, it would also mean that although the petitioners have purchased the land in question, the petitioners have not received the possession of the land from their seller and without possession being received and title to the land being perfected, the petitioners are making the prayer that the land be acquired and compensation be paid to the petitioners. This is relevant as the petitioners purchased the land in the year 2020 which is not in dispute and the revenue entry in favour of the State Government in respect of the land as objected by the petitioners, is of the year 1986.

5. In the aforesaid circumstances, Mr. Khaire would fairly states that the petitioners be permitted to withdraw the petition. In our opinion, it would be appropriate to accept the request of Mr. Khaire to permit the petitioners to

withdraw this petition, keeping open all the contentions of the petitioners in the enquiry which would be undertaken by the Tahasildar in pursuance of the order dated 20 February 2024 passed by the Sub-Divisional Officer.

6. In the facts and circumstances of the case, the enquiry be completed as expeditiously as possible and within a period of three months from the date a copy of this order is placed before the Tahasildar. Also considering the peculiar facts of the case, we are of the opinion that after the Tahasildar passes an order, let the Collector approve the said order and accordingly communicate the same to the petitioners.

7. Till the Collector takes an appropriate decision, the petitioners whose names have also been indicated as a purchaser of the land in the revenue records, the same be not disturbed, which shall be subject to the orders that shall be passed by the Tahsildar. All contentions of the parties are expressly kept open.

8. Needless to observe that we have not delved on the private dispute, if any, between the petitioners and the erstwhile owners of the land from whom the petitioners had purchased the land, including on the issue of possession of the land being not handed over by such seller to the petitioners or on any issue in regard to the petitioners' title to the said land.

9. Disposed of. No costs.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)