

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10857 OF 2024

Parubai Yashwant Thorat

... Petitioner

Vs.

1. State of Maharashtra
through Government Pleader & 5 Ors.

.. Respondents

Mr. Sumit V. Khaire, for Petitioner.

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

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

Date : August 16, 2024

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1. The case of the petitioner is that the petitioner's land in question being Gat No. 377, situated at village Sahajpur, Taluka Daund, Dist. Pune was not acquired for the public purpose under the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999, resultantly, neither there is any award nor compensation received by the petitioner. Learned counsel for the petitioner has contended that without the land being acquired, the respondents have made an entry in the revenue records indicating the name of the State Government. He submits that in the absence of acquisition of the land, such entry cannot continue to remain on the revenue records. The learned counsel has drawn our attention to the order passed by this Court on a batch of petitions (Writ Petition No. 15826 of 2023-*Ravindra B. Pingale Vs. The State of Maharashtra & Ors.* and other petitions), wherein, this Court, after considering similar facts and circumstances,

had directed deletion of the entries from the revenue records within a period of ten weeks from the date of the said order. The said order is required to be noted, which read thus :

- 1. This is a batch of petitions where the grievance of the petitioners is common. The grievance is that the respective lands of the petitioners were not acquired for the concerned irrigation projects and / or for the public purpose under the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999.*
- 2. However, without the land being acquired, an entry has been incorporated in the revenue record in respect of these lands belonging to the petitioners that the same are reserved for the respective projects in relation to which such entries are made.*
- 3. It is in these circumstances, the petitioners contends that it would be arbitrary as also illegal for the State to incorporate such entries in the revenue records showing the land to be reserved without any subsisting valid notification for acquisition, which was taken to the logical conclusion resulting in the acquisition of the land.*
- 4. It is submitted that there is no authority whatsoever that such entries can be made on any other lands required for such purpose, land stood acquired and the petitioners' lands were not subject matter of such acquisition, even the notification in that regard also having lapsed.*
- 5. Learned counsel for the petitioners has submitted that similar issues had arisen before this Court. Our attention is drawn to an order passed by a co-ordinate Bench of this court of which one of us (G. S. Kulkarni, J.) was a member in Writ Petition No. 8010 of 2023 Dadabhau Ramdas Ransing and Ors. (page 171) in which this Court in similar circumstances and following similar orders passed earlier by this Court, had allowed the petition, directing that such entries be deleted by the respondents from the revenue records. We note the order dated 5 July 2023 passed on Writ Petition No. 8010 of 2023 which reads thus:*

“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 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."*

6. *All these petitions concern a similar situation which fell for consideration of the Court qua the petitioners' lands which have continued to remain on the record for number of years without the petitioners' lands being subjected to acquisition, much less acquired.*

7. *In this view of the matter, Mr. Samant, learned Additional Government Pleader would also not dispute that the petitioners' lands were not subject matter of acquisition. He would however submit that in the event the land is required for public purposes, all*

rights and contentions of the State Government needs to be kept open.

8. Certainly, the Court cannot curtail any authority of the State Government to acquire lands in exercising the powers of eminent dominion, in the event such lands are required for public purpose. Such authority is always open to be exercised by the State Government in accordance with law.

9. In the light of the above discussion, we dispose of these petitions with the following directions.

i. The respondents are directed to take appropriate action within a period of 10 weeks from today to delete the entries of reservation of the petitioners' lands for the concerned project as reflected in the revenue record, in each of the petitioners' lands. The description of such land is made in the Writ Petitions as also in the prayer in the Writ Petition.

ii. The compliance of this be forwarded to the petitioners by a letter to be addressed by the Competent Authority.

iii. We observe that we have not examined any other contentions of the parties except what has been observed hereinabove.

iv. We also keep open all rights and contentions of the State Government, in the event any of these lands are required in furtherance of any public purpose, for the same be acquired by following due procedure in law and in accordance with law.

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

2. In our opinion, as the entries have persisted for a substantial period, unless there is a justifiable reason not to delete such entries, the respondents are directed to take appropriate steps to delete the entries of reservation of the petitioner's land for the concerned project as reflected in the revenue records, within a period of ten

weeks from today. In the event, the respondents are not inclined to delete such entries, they shall, after giving an opportunity of hearing to the petitioner, forward appropriate reasons in writing, to the petitioner. All rights and contentions of the State Government in that regard are expressly kept open. The compliance of this be forwarded to the petitioner by the Competent Authority.

3. We observe that we have not examined any other contention of the parties except what has been observed hereinabove.

4. Disposed of in the aforesaid terms. No costs.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI , J.)