

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12361 OF 2024

Chhaya Anant Sawant And Ors. ...Petitioners

Versus

State Of Maharashtra And Ors. ...Respondents

Mr. Atul Damle, Senior Advocate a/w Mr. Abhijit Patil, for the Petitioners.
Ms. Leena Patil, 'B' Panel Counsel, for Respondent Nos.1, 2 and 4 – State.
Mr. Atharva Dandekar, for the Respondent No.3.

**CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.**

DATE : 14 NOVEMBER 2024

P.C.:

1. We have heard Mr. Atul Damle, learned Senior Counsel for the Petitioners and Mr. Atharva Dandekar, learned counsel for the Respondent No.3/Mumbai Railway Vikas Corporation Limited ("MRVCL" for short) and Ms. Leena Patil, learned Asst. Government Pleader for Respondent Nos.1, 2 and 4.

2. It appears to be not in dispute, as also seen from the Gazette Notification dated 28 December 2020 issued under Section 20A(i) of the

Railways Act, 1989 declaring the intention of the Government of India to acquire, *inter-alia*, the Petitioners' land subject matter of acquisition, for the purpose of the Special Railway Project [viz. Virar-Dahanu Road Quadrupling Project on the Western Railway of the Mumbai Urban Transport Project (MUTP) in the District of Palghar, State of Maharashtra], is Petitioners' land bearing 0.1766 Hectares in Survey No.459/2, as also notified by corrigendum.

3. The case of the Petitioners is that although the Petitioners' land admeasuring 0.1766 Hectares is sought to be acquired, the Land Acquisition Officer (Respondent No.2) intends to take possession of the entire land in Survey No.459/2, which according to the Petitioners is admeasuring 29.61R. In this context, our attention is drawn to the documents placed on record and more particularly, the letter dated 9 May 2023 **Exh.-M** at page 66 addressed by the Respondent No.4/ Deputy Secretary of Land Records (DSLRL), Palghar to Respondent No.2 – the Land Acquisition Officer. It appears from the reading of the said letter and more particularly, the last paragraph that Respondent No.4 has acted upon a map which was furnished by Respondent No.3/ MRVCL in regard to the acquisition of land for the public project in question, in which according to the Deputy Superintendent Land Records it include the entire area of 29.61R.

4. Mr. Damle, learned Senior Counsel for the Petitioner however has urged that not only primary notification as issued subjecting the Petitioners' land to acquisition but also the Award pertains to Petitioners' land admeasuring only 0.1766 Hectares and hence, there was no jurisdiction to take possession of any access area of the land i.e. over and above 0.1766 Hectares.

5. Mr. Dandekar, learned counsel for the MRVCL has drawn our attention to a letter dated 10 June 2024 addressed by his client to the Special Land Acquisition Officer (SLAO) that the requirement of MRVCL was only to the land admeasuring 0.1766 Hectares of the Petitioners' land and not the total area of 29.61R, and it is only to such extent, the compensation also has been deposited with the SLAO by the MRVCL. Thus, Mr. Dandekar, learned counsel supports the contention of Mr. Damle, learned Senior Counsel that the requirement so far as the Petitioners' land subject matter of acquisition is 0.1766 Hectares.

6. From the perusal of the record, it appears to us that the confusion has arisen as the DSLR who is to consider the possession of land to be taken for the public project is relying upon a map for acquisition which indicates the lands as demarcated/ furnished by respondent No.3/

MRVCL to the SLAO as also DSLR which includes the petitioners' entire land. However, such map appears to be contrary to the actual requirements of the MRVCL notified for acquisition under the statutory notification as noted above which was only to the extent of 0.1766 Hectares of petitioners' land and nothing more. Such confusion as created by a map, by respondent No.3 will be required to rectify the same by respondent No.3.

7. Mr. Dandekar has fairly stated that his officer is present in the Court and necessary steps would be taken to rectify the same. The same will be undertaken within one week from today. Statement accepted.

8. In this view of the matter, in our opinion, further adjudication of this Petition is not called for, as a statement is made on behalf of the MRVCL that the Petitioners' land admeasuring 0.1766 Hectares would be for only area which was being acquired and subject matter of the land acquisition proceedings. As also the Award acquires only 0.1766 Hectares of land and on which compensation has been already paid/received by the Petitioners.

9. Needless to observe that in this view of the matter, the SLAO shall not take any further steps to take possession of Petitioners' land over and above 0.1766 Hectares which is the land actually acquired.

10. Ordered accordingly.

11. Petition is disposed of in aforesaid terms. No costs.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]