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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.15139 OF 2024

Suhas Dattatray Dhamdhare Petitioner
Vs.
The State of Maharashtra & Ors. Respondents

Mr. Sachin Deokar a/w Mr. Vignesh Ashokan for Petitioner

Ms. M.S. Bane, AGP for State / Respondent Nos.1 to 6

CORAM : G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.

DATE : 24th OCTOBER, 2024

P. C.

1. Rule, made returnable forthwith. Learned A.G.P. for the respondents waives service. By consent of the parties, heard finally.

2. The grievance of the petitioner is in respect of land bearing Gat No.2576 situated at Village Talegaon Dhamdhare, Taluka Shirur, District Pune, to the effect that the land of the petitioner, which is the subject matter of this petition, although not acquired for the Gunjavani project and/or for a public purpose under the provisions of the Maharashtra Project Affected Persons Rehabilitation Act, 1999, however, an entry is incorporated in the revenue record, qua the land of the petitioner, indicating that the

land is reserved for the Gunjavani project, as set out in such revenue entry.

3. The petitioner accordingly contends that it will be arbitrary and illegal for the State to incorporate such entry in the revenue record showing the land to be reserved without any subsisting valid notification for acquisition or any lawful acquisition of the land.

4. It is submitted that there is no authority, whatsoever, in law that such entry can be made when the petitioner's land was not the subject matter of acquisition and the notification proposing to acquire the land had also lapsed.

5. Learned counsel for the petitioner 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. vs. State of Maharashtra), in which this Court, in identical circumstances and following the earlier orders passed 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. Our attention is also drawn to an order passed by this court on a batch of petitions on 18th October 2024 (Sambhaji Govinda Bhujbal vs. The State of Maharashtra & Ors.) in Writ Petition No.5521 of 2024. The Court observed that revenue entries, reserving the petitioner's land without acquisition, cannot be continued for a substantial period. It was observed that the same would be prejudicial to the rights and interests of the petitioners, who are entitled to hold the land free from any encumbrance. It

was observed that the petitioners' rights guaranteed under Articles 14 and 300A of the Constitution of India were prejudicially affected by such action of the respondents and accordingly the petitions were allowed.

7. This petitioner is thus similarly placed as in the aforesaid proceedings which had come before the Court. The revenue entries, being objected to by the petitioner, have continued to remain on the record for number of years without the petitioner's land being subjected to acquisition, much less acquired.

8. Ms.Bane, learned AGP would also not dispute that the petitioner's lands were not the subject matter of acquisition. She would however submit that, in the event the land is required for public purposes, all rights and contentions of the State Government need to be kept open. Certainly, the Court cannot curtail the authority of the State Government to acquire lands in exercising its powers of eminent dominion. In the event such lands are required for public purpose, it is always open for the State Government to acquire the lands by adopting a procedure the law provides.

9. In the light of the above discussion, we dispose of this petition 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 petitioner's land for the concerned project as reflected in the revenue record, in respect of the petitioner's land of the description as made in the prayers of this Writ Petition.

ii. The compliance of this be forwarded to the petitioner 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 the land is required for any public purpose, the land be acquired in accordance with law.

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

[FIRDOSH P. POONIWALLA, J.]

[G. S. KULKARNI, J.]