



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3105 OF 2022

Kusumbai Sundarrao Angunwar, Kelapur, Dist. Yavatmal and ors.

-VS-

State of Maharashtra, Thr. Secretary, Revenue and Forest Dept. Mantralaya, Mumbai and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and the Registrar's orders.

Court's or Judge's Orders.

Shri S. K. Pardhy, Advocate for petitioners.

Shri H. D. Marathe, Assistant Government Pleader for respondents.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : February 01, 2024

P. C.

Heard Shri S. K. Pardhy, learned counsel for the petitioners at length so also Shri H. D. Marathe, learned Assistant Government Pleader appearing for the respondents.

2. The prayer of the petitioners is for quashing of communication dated 28/07/2016 issued in Revenue Case No./Prastu-1 /UVAK/ KAVI/ 50/2016.

3. The facts necessary for deciding the petition are as under :

The petitioners claim to be owner of lands admeasuring 6 acres 6 gunthas from Survey Nos.23, 28, 55, 15 and 29, the land from Survey Nos.30, 43, 44, 45, 46 and 58, land admeasuring 2 acres 12 gunthas from Survey No.53 and land admeasuring 8 acres from Survey No.57, Nimbadevi (Village No.179), Taluka Wani, District Yavatmal which were reserved under the relevant provisions of Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (for short, the Act of 1950) for Grazing ('E' Class). According to the petitioners the aforesaid lands were acquired by the respondent-Authority way back on 28/05/1954 without there being any order of

payment of compensation. As a sequel of which the petitioners and their ancestors are pursuing the matter before the respondent-Authority either for return of land or payment of compensation.

7. According to Shri S. K. Pardhy, learned counsel for the petitioners, since the compensation is not paid by the respondent, present proceedings are initiated. He would invite our attention to the order dated 28/05/1954 passed by the Additional Collector, Yavatmal, representation preferred by the petitioners which was subsequently treated as revenue case and the orders passed therein.

8. He would claim that the petitioners are illiterate agriculturists. Merely because they have not approached the Competent Authority questioning the acquisition within reasonable period or they have not lodged their claims for return of land within reasonable time pursuant to the provisions of Section 48 of the Act of 1950 that by itself would not dis-entitled them to approach the Authority or this Court seeking compensation or return of land. As such he would urge that the order impugned passed by the respondent-Authority is liable to be quashed and set aside.

9. Shri H. D. Marathe, learned Assistant Government Pleader for the respondents opposed the prayer on the ground that the petition is preferred by way of an afterthought as proceedings of acquisition have already attained finality on 28/05/1954. As such he sought dismissal of the writ petition.

10. We have appreciated the submissions. Perusal of the documents which are produced on record particularly Annexure-1 pertains to Revenue Case and the order passed under Section 42 of the Bombay Land Revenue Code whereby it was ordered that the land referred to in the said order was required for Gaothan. The order further states that

the customary right to the extent mentioned in the said order was reserved under Section 108 of the Code.

11. It appears that subsequent thereto the petitioners have not preferred any proceedings so as to claim either compensation for the acquired land or for return of the land till 2012.

12. It appears that the petitioners have approached the Authoirty on 24/01/2011 with a prayer for return of land under Section 48 of the Code as referred above. The petitioners or their ancestors have not taken any steps for almost more than 55 years either for seeking payment of compensation or for return of the land. The record depicts that after acquisition of the land same is classified as Class 'E' (Grazing).

13. In the aforesaid backdrop it has be inferred that merely because Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into existence, the petitioners have shown their interest in pursuing their matter without explaining the delay of more than 55 years.

14. In view of aforesaid, we uphold the objection raised by the learned Assistant Government Pleader. We hold that the cause canvassed before us not only suffers delay and laches but the claim put forth is not bonafide.

15. That being so, in our opinion the petition also lacks merits. The same is dismissed with no order as to costs.

(Abhay J. Mantri, J.)

(Nitin W. Sambre, J.)