



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5467 OF 2022

Laxmanrao Manikrao Bhosle

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....
Mr. S.K. Adkine, Advocate for petitioner
Ms. P.J. Bharad, A.G.P. for respondents
....

CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.
DATE : 09th JUNE, 2025

PER COURT :

1. The petitioner has approached this Court with following prayer :-

“B) Quash and set aside order dated 28/02/2022 passed by the Ld. Collector Nanded i.e. respondent no.3 about restoration of acquired of petitioner land from Gut No.59, 60 and 61 Adm. 1-H, 90-R situated Daulatpur, Tq. Biloli, Dist. Nanded.”
2. The petitioner was the owner of lands, Gut Nos. 59, 60 and 61 situated at village Daulatpur, which came to be acquired for extension of *Gavthan*. The land acquisition proceeding was initiated and completed under the Land Acquisition Act, 1894.
3. Learned counsel for the petitioner submits that though the compensation was paid, the same is not withdrawn by the petitioner. He submits that the land is not used for which it was acquired. Therefore, the

same may be restored back to the petitioner. He further submits that the impugned order dated 28th February, 2022 passed by the District Collector, Nanded i.e. Respondent No.3 be quashed and set aside on the ground that Section 101 of the new Act of 2013 provides for restoration of acquired land if the same is not used for the acquisition purpose within a period of five years.

4. The petition is opposed by learned A.G.P. She submits that the provisions of new Act of 2013 will not be of any assistance to the petitioner. She submits that the entire acquisition proceedings in the present matter was initiated and completed under the old Act. There is no provision of restoring back the land of the petitioner under the old Act and Respondent No.3 has rightly passed the order.

5. There is no dispute that the above referred land of the petitioner came to be acquired by due procedure under the Act of 1894. Vide the impugned order, the petitioner's demand for restoration of land was refused on the ground that there is no such provision in the said Act of 1894 to restore back the land. Section 16 of the Land Acquisition Act, 1894 is clear, which reads as under :-

“16. Power to take possession. - When the Collector has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.”

6. The Apex Court in case of ***Northern Indian Glass Industries Vs.***

Jaswant Singh and Ors., AIR 2003 SC 234 has observed thus :-

“Restoration of land cannot be ordered on the ground that the land acquired was not used for which it had been acquired. It is well-settled position in law that after passing the award and taking possession under S.16 of the Act, the acquired land vests with the Government free from all encumbrances. Even if the land is not used for the purpose for which it is acquired, the land owner does not get any right to ask for revesting the land in him and to ask for restitution of the possession.”

7. The Act of 1894 does not provide for restoration of the land back to it's owner, if the same remained unused for the purpose for which it was acquired. In this view of the matter, there is no substance in the writ petition and same stands dismissed.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

SSD