



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11398 OF 2024

Abdulla Bismillah

...Petitioner

Versus

The Competent Authority and
Sub-Divisional Officer & Ors.

...Respondents

Mr. Suraj Naik i/b. Mr. Raju Suryawanshi for the Petitioner.

Mr. B. V. Samant, Addl. G. P. a/w Ms. S. R. Crasto, AGP for the
Respondent-State.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.

DATED : 15 April 2025

PC.:- (Per M. S. Sonak, J.)

1. Heard Mr. Suraj Naik instructed by Mr. Raju Suryawanshi for the Petitioner and Mr. Samant, learned Additional GP along with Ms. Crasto, AGP for the State.

2. The Petitioner challenges award bearing No.14 of 2020 dated 14 March 2020 made by the Competent Authority and the Sub-Divisional Officer, Palghar, under the National Highways Act, 1956 provisions.

3. Mr. Naik submits that the Petitioner had purchased a portion of the acquired land by registered sale-deed dated 29 July 2015 from Abdulgani Rehmatullah Khan. This Abdulgani Rehmatullah Khan, had purchased the property by registered sale-deed dated 27 February 2015 from Respondent Nos.4 and 5. He pointed out that all these mutations have been reflected in the survey records.

4. Mr. Naik submits that property was acquired vide Notification dated 30 January 2019 which culminated into final award dated 14 March 2020. In terms of the award, the entire compensation amount was paid to the Respondent Nos.4 and 5 though, they were not the owners of the entire acquired property or were owners of the property along with the Petitioner. Mr. Naik submitted that the acquisition is vitiated because no proper measurement was carried out and no proper notice was issued to the Petitioner despite the Petitioner's name reflecting in the survey records.

5. Mr. Samant learned Additional GP submitted that this is a private dispute between Petitioner and Respondent Nos.4 and 5 for compensation. Mr. Samant points out that the Petitioner has pleaded in this petition that there was no demarcation of boundaries and the Petitioner's name remained to be recorded in Gut No.143 to the extent 15R based on registered sale-deed. Mr. Samant submitted that acquisition was duly notified in terms of the procedure provided under the National Highways Act and no objections were filed or claims raised by the Petitioner. He, therefore, submitted that no case is made out for interfering with the impugned award or the acquisition. At the highest, it is for the Petitioner to take out appropriate proceedings against the persons who have received the compensation and recover from such compensation from such persons.

6. The rival contentions now fall for our determination.

7. At the outset, we note that the acquisition was notified on 30 January 2019, and the impugned award was made on 14 March 2020. This petition is filed on 9 October 2023. There is no explanation for the delay except to state that the Petitioner was not in India or in

Maharashtra. Mr. Naik now states that the Petitioner is a permanent resident of Uttar Pradesh but working in Gulf.

8. Apart from the above aspect, it is apparent that this is a case of private dispute between the Petitioner and Respondent Nos.4 and 5. The Petitioner's case is that Respondent Nos.4 and 5 have pocketed the entire compensation when, in fact, compensation proportionate to the land which was already sold to the Petitioner should have been paid to the Petitioner. Such a private dispute cannot be adjudicated by exercising extraordinary and summary jurisdiction under Article 226 of the Constitution of India. Such an adjudication would essentially involve disputed questions of facts which cannot be conveniently dealt with in the exercise of such summary and extraordinary jurisdiction.

9. The fact that some party which was not entitled to compensation has received such compensation also cannot be a ground to set aside the impugned award and interfere with the acquisition for highway. The Petitioner has legal remedies to recover the compensation if the Petitioner is entitled to such compensation. The Petitioner is free to resort to such remedies and recover the compensation from the persons who have received the same. Still, on this count, no case is made out to quash the acquisition proceedings or the impugned award.

10. There is no reason to doubt that the acquisition proceedings in the present case involved the publication of notices and other compliances. At no stage is there any record of the Petitioner objecting to such acquisition or raising a claim for compensation. It is possible, as contended by Mr. Naik that the Petitioner was unaware. Still, that does not create the cause of action to question the acquisition itself. At the highest, that would be grounds for explaining the delay and proceeding

against Respondent Nos.4 and 5, who, the Petitioner says, have wrongly appropriated the entire compensation amount.

11. Accordingly, we dismiss this petition but leave it to the Petitioner to take appropriate proceedings to recover the compensation amount from Respondent Nos. 4 and 5 in accordance with law. However, all parties' contentions in this regard are kept open because we have not adjudicated on the rival contentions. The Petition is disposed of with liberty in the above terms. There are no costs.

12. At the request of Mr. Naik, we record that this petition was instituted on 9 October 2023 and remains pending to this date. The Petitioner was *bona fide* in pursuing this proceeding before this Court, and this aspect may be considered should the Petitioner take out an appropriate proceeding for recovery of compensation.

(Jitendra Jain, J.)

(M. S. Sonak, J.)