IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8789 OF 2012

Shri. Ambadas Balbhim Salunke	**]**	
(since deceased) through Lrs;	**]**	
1A. Raju Ambadas Salunke and others	**]**	**Petitioners**
versus		
The State of Maharashtra and others	**]**	**Respondents**

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Mr. P.B. Shah (through V.C.) a/w Ms. Gunjan Shah a/w Mr. Rahul Patil, Advocates for Petitioners.

Ms. Shruti Vyas, Addl. G.P a/w Ms. Manasi Bane, A.G.P, for Respondent – State.

Mr. I.M. Khairdi, Advocate for Respondent No.6 – Solapur Municipal Council.

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SHAILAJA SHRIKANT HALKUDE
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CORAM : SHARMILA U. DESHMUKH &
ABHAY J. MANTRI, JJ.

DATE : NOVEMBER 25, 2026.

P. C. :

1. By the present Petition, the challenge is to the order dated 24th August, 2012 passed by the Deputy Collector/ Land Acquisition Officer, Solapur holding that City Survey No.8907/C-2 is the part of Final Plot No.79 of the Town Planning Scheme.

2. Briefly stated, the facts of the case are that the Petitioner had purchased a plot admeasuring 273 square meters bearing Survey No.8907/C-2 which was proposed for acquisition by holding that the same forms part of Plot No.79. Being aggrieved, the Petitioner filed Writ Petition No.590 of 1991 and by order dated 11th December, 2001, this Court directed the Special Land Acquisition Officer to hold an enquiry in accordance with the direction contained in the said order. As possession notice came to be issued on 12th November, 2010 without holding the enquiry as directed by order dated 11th December, 2001, the Petitioner challenged the same by filing Writ Petition No.9220 of 2010 which came to be disposed of by relegating the Petitioner to the alternate remedy of an Appeal under section 247 of the Maharashtra Land Revenue Code, 1966. The Appeal came to be decided by order dated 5th February, 2011 revoking the possession notice dated 12th November, 2010. Subsequently, the impugned order came to be passed as directed in Writ Petition No.590 of 1991 which is challenged in the present Petition.

3. Mr. Shah, learned Counsel appearing for the Petitioner has taken this Court in detail through the order dated 11th December, 2001 and the observations of the Court therein. He submits that though detailed directions were given by this Court to the Special Land Acquisition

Officer, there was no hearing and no inquiry as contemplated by law. He submits that by the impugned order, subject Survey No.8907/C-2 has been held to be part of final Plot No.79 based only on the report of the City Survey Officer without granting an opportunity of hearing to the Petitioner and without a copy of the report being furnished to the Petitioner. He would also point out the cryptic manner in which the impugned order has been passed.

4. Learned A.G.P would support the impugned order and would submit that though notice of hearing was given, the Petitioner did not participate in the proceedings. She would further submit that the impugned order makes a reference to the written submissions given by the Petitioner and, therefore, it cannot be said that opportunity of hearing has not been given to the Petitioner. She submits that the City Survey Officer had submitted a detailed report alongwith the map, on the basis of which, the Deputy Collector has determined that Survey No.8907/C-2 is part of the town planning final Plot No.79. She submits that as the impugned order is on the basis of the report submitted by Survey Officer, no interference is warranted.

5. Mr. Khairdi, learned Counsel appearing for Respondent No.6 – Solapur Municipal Council, would support the stand taken by the

learned A.G.P. and would submit that, due to the pendency of the present Petition, the allotment has been stalled. He would submit that Deputy Collector has considered the report of the City Survey Officer which is a detailed report and based on the map as well as the report, the impugned order has been passed which does not warrant any interference.

6. We have considered the submissions and perused the record. In the first round of litigation in Writ Petition No.590 of 1991, this Court had considered the challenge to the acquisition and in particular, has considered the issue as to whether the subject survey No.8907/C-2 is part of Plot No.79. The Court further observed that there is no statement which has been made as to what was earlier survey number of final plot No.79 and also observed that the property extract of subject survey number shows Petitioner's name as the owner and there is no explanation as regards the different property extract available with the Authority. On the basis of the said observations, this Court directed the Special Land Acquisition Officer to hold an enquiry as to whether City Survey No.8907/C-2 is part of final Plot No.79 of Town Planning Scheme No. IV, Solapur after giving notice to the Petitioner as well as the rival parties claiming ownership of the said land.

7. Though this Court had directed the Special Land Acquisition Officer to hold an enquiry after giving notice to the Petitioner as well as the other persons claiming ownership in respect of the said land, we do not find from the impugned order that any such opportunity was given to the Petitioner and the other persons alleging to be owners of the said land. The Order of this Court was passed on 11th December, 2001 whereas the impugned order has been passed in the year 2012. The impugned order indicates that written submissions were submitted by the Petitioner, however, the same has been discarded in single sentence concluding that the same does not prove that subject land is not part of Plot No.79.

8. Perusal of the impugned order would indicate that the same is premised on report submitted by the City Survey Officer as well as the map annexed to the report. In such an event, it is incumbent to supply the copy of the report to the Petitioner and rival parties which appears to not have been done. The impugned order is cryptic and accepts the report without any discussion and without any finding supporting the final conclusion. As this Court had directed an enquiry to be conducted, the enquiry is required to be conducted as contemplated by law and cannot be a mere lip service to the order passed by this Court. By a cryptic order, the concerned Authority had arrived at the conclusion that

the said subject plot is part of final Plot No.79 without any discussion and without any finding.

9. As no opportunity of hearing is given to the Petitioner and the copy of the report has not been furnished to the Petitioner, in our view, it would be appropriate if the impugned order dated 24th August, 2012 is quashed and set aside and inquiry is remitted to the file of the Deputy Collector to be considered afresh after furnishing a copy of the report to the Petitioner and the other parties and giving them an opportunity of being heard.

10. Resultantly, the impugned order dated 24th August, 2012 is hereby quashed and set aside. The Petitioners to appear before the Deputy Collector on 7th December, 2026 at 11.30 a.m. In the event, the rival parties are not present, notice to be given to them to appear before the Deputy Collector within a period of seven days and not later. Copy of the report of the city survey officer to be served on the Petitioner and the rival parties and after giving an opportunity of being heard, a detailed reasoned order be passed by the Deputy Collector as directed by the order dated 11th December, 2001 in Writ Petition No.590 of 1991. The exercise to be completed expeditiously and, in any event, within a period of eight weeks. In the event, any adverse order is

passed, the same not to be given effect to for a further period of two weeks.

11. The Petition is allowed in the above terms.

[ABHAY J. MANTRI, J.] **[SHARMILA U. DESHMUKH, J.]**