

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 899 OF 2024

Madhukar Sadashiv Kokate

Age: 77 years, Occ. Agri & Nursery,
R/o. Opp. S. P. College, 1674, Sadashiv
Peth, Pune – 411 030.

..Petitioner

Versus

1. Dashrath Vitthal Shitole

Age. 43 years, Occ. Agri & Business,
R/o. Koregaon Mul, Inamdar Vasti,
Tq. Haveli, Dist. Pune – 412 202.

2. Bharat Mohanlal Solanki

Age. 42 years, Occ. Agri & Business,
R/o. Velhe, Velhe Bazar Peth, Tq. Haveli,
Dist. Pune – 412 212.

3. Chandrabhan Bhimsing Thakur

Age. 63 years, Occ. Agri & Business,
R/o. Chandrabhan Thakur, Giridghar
Bhavan, 65/512, Thakur Food Products,
Maharshinagar, Pune – 411 037.

4. Amit Chandrabhan Thakur

Age. 36 years, Occ. Agri & Business,
R/o. Chandrabhan Thakur, Giridghar
Bhavan, 65/512, Thakur Food Products,
Maharshinagar, Pune – 411 037.

...Respondents

Mr. Chaitanya Nikte a/w Mr. Vishal Tiwari, i/b. Prajit Sahane,
for petitioner.

Mr. S. S. Patwardhan i/b. Purshottam Chavan, for
respondents.

CORAM : N. J. JAMADAR, J.
RESERVED ON : 16th DECEMBER 2025
PRONOUNCED ON : 06th JANUARY 2026

JUDGMENT:

1. Rule. Rule made returnable forthwith, and, with the consent of learned Counsel for the parties, heard finally.

2. This petition under Article 227 of the Constitution of India assails the legality, propriety and correctness of a judgment and order dated 09th October, 2023 passed by the learned District Judge, Pune in Miscellaneous Civil Appeal No. 238/2021 whereby the Appeal preferred by the petitioner - plaintiff against an order dated 05th February, 2021 passed by the learned Civil Judge, Pune in R.C.S No. 751/2020 thereby rejecting an application for temporary injunction, came to be dismissed.

3. Shorn of unnecessary details, the background facts can be stated as under:

3.1 Laxman Babu Kokate was the original holder of agricultural land bearing Gat No. 410 situated at village Koregaon (Mul), Tq. Haveli, Dist. Pune. The plaintiff, who is the successor in interest of Laxman Babu Kokate, claims to be the owner of 1/3rd share in the said land. Out of the said land, 80R land was acquired for rehabilitation of the project affected

persons. The said 80R land was allotted to Late Maruti Sadashiv More, the predecessor in title of the defendants. The land bearing Gat No. 410 was, thus, divided into Gat No. 410/1 and 410/2. Vide ME No. 1469, the land bearing Gat No. 410/2 came to be mutated in the name of Late Maruti Sadashiv More.

3.2 The controversy between the parties revolves around the location of the said land bearing Gat No. 410/2. The plaintiff asserts that, the land which was allotted to Late Maruti Sadashiv More abuts the railways. No parcel of land abutting Pune – Solapur Highway was ever acquired. The land abutting Pune – Solapur Highway has always been in the possession and cultivation of the plaintiff, yet, on the basis of incorrect entries in the record prepared at the time of the acquisition of the land, the defendants threatened to cause obstruction to the peaceful possession and cultivation of the land admeasuring 80R situated on the southern side of Pune – Solapur Highway (the suit land).

3.3 It was asserted that, the land acquisition authorities had clarified that, the 80R land abutting the railways was acquired and allotted to Late Maruti Sadashiv More. Yet, the defendants

threatened to dispossess the plaintiff. Hence, the suit for injunction.

3.4 In the said suit, the plaintiff filed an application for temporary injunction. It was resisted by the defendants. By an order dated 05th February, 2021, the learned Civil Judge was persuaded to reject the application observing, *inter alia*, that, the material on record indicated that, the defendants were in possession of the suit land, and, conversely, the plaintiff failed to establish his own possession over the suit land. The contemporaneous record indicated that, the suit land was allotted to Late Maruti Sadashiv More.

3.5 Being aggrieved, the plaintiff preferred an appeal before the learned District Court. By the impugned judgment and order, the learned District Judge dismissed the appeal concurring with the view of the Trial Court. The learned District Judge was of the view that, the documents which were contemporaneous to the process of acquisition commanded preference over letter addressed by the Special Land Acquisition Officer to the brother of the plaintiff indicating the date of delivery of possession, and the boundaries, of the acquired land.

3.6 Being further aggrieved, the petitioner has invoked the writ jurisdiction.

4. I have heard Mr. Chaitanya Nikte, the learned Counsel for the petitioner, and Mr. S. S. Patwardhan, the learned Counsel for the respondents, at some length. With the assistance of the learned Counsel for the parties, I have perused the material on record including the impugned orders.

5. Mr. Nikte, the learned Counsel for the petitioner, would urge that, both the Courts below have proceeded on an incorrect premise that, the documents which were contemporaneous with the land acquisition process commanded preference over the documents relied upon by the plaintiff. Mr. Nikte would urge, those documents evidenced the events which transpired at the stage when the acquisition was proposed. However, at the time of actual acquisition, the 80R land situated on the northern side of Railway Line was allotted to Late Maruti Sadashiv More, and that fact was certified by the Special Land Acquisition Officer. Therefore, the Courts below have misdirected themselves in returning the findings that, the suit land was allotted to Late Maruti Sadashiv More. Mr. Nikte made an endeavor to place reliance on the demarcation map of Koregaon (Mul) which

indicates that, the land which was to be acquired abutted the Railway Line and not the Pune – Solapur Highway. It was submitted that, though the said demarcation map could not be tendered before the Trial Court, yet, since the boundaries of the acquired land shown in the letter issued by the Special Land Acquisition Officer dated 18th May, 1984 correspond with the entries in the said demarcation map, the Court would be justified in taking into account the said demarcation map.

6. In opposition to this, Mr. Patwardhan, the learned Counsel for the respondents, would urge that, the impugned orders do not suffer from any perversity so as to warrant interference in exercise of supervisory jurisdiction. Taking the Court through the reasons, which weighed with the learned District Judge and the learned Civil Judge, Mr. Patwardhan would urge that, the Courts below have recorded justifiable, *prima facie*, findings of fact based on objective material and, thus, such exercise of discretion is not open for correction in writ jurisdiction.

7. On the merits of the matter, Mr. Patwardhan would urge, there is overwhelming material to show that, the land abutting Pune – Solapur Highway was allotted to Late Maruti Sadashiv More as a project affected person. It was submitted that, even

the Deputy Superintendent, Land Records, Haveli had measured the land and submitted a report vide MR No. 30721/2020 fixing the exact location of the said land. The Courts below have taken into account the said map prepared by the Deputy Superintendent, Land Records alongwith the contemporaneous documents. In the face of such material, reliance on the communication purportedly addressed by the Special Land Acquisition Officer indicating the boundaries of the suit land, does not command any preference, submitted Mr. Patwardhan.

8. At the outset, it is necessary to keep in view the limits of supervisory jurisdiction while appraising the legality and correctness of a discretionary order. In exercise of the supervisory jurisdiction, the High Court is not expected to re-appreciate, reweigh and review the evidence and material, and substitute its view for the one recorded by the Courts below. The High Court cannot permit itself to be converted into another appellate forum. The High Court can legitimately intervene if the impugned order has been passed in excess of jurisdiction or the perversity in the order is manifest.

9. A profitable reference in this context can be made to the judgments of the Supreme Court in the cases of **Rajendra Diwan Vs. Pradeep Kumar Ranibala & Anr.¹**, and **Ajay Singh Vs. Khacheru & Ors²**.

10. In the case of **Rajendra Diwan Vs. Pradeep Kumar Ranibala & Anr., (supra)**, the Supreme Court has expounded the nature of the jurisdiction under Article 227 as under:-

....

“85. The power of superintendence conferred by Article 227 is, however, supervisory and not appellate. It is settled law that this power of judicial superintendence must be exercised sparingly, to keep subordinate courts and tribunals within the limits of their authority. When a Tribunal has acted within its jurisdiction, the High Court does not interfere in exercise of its extraordinary writ jurisdiction unless there is grave miscarriage of justice or flagrant violation of law. Jurisdiction under Article 227 cannot be exercised “ in the cloak of an appeal in disguise”.

86. In exercise of its extraordinary power of superintendence and/or judicial review under Articles 226 and 227 of the Constitution of India, the High Courts restrict interference to cases of patent error of law which go to the root of the decision; perversity;

1 2019 SCC OnLine SC 1586

2 (2025) 3 SCC 266

arbitrariness and/or unreasonableness; violation of principles of natural justice, lack of jurisdiction and usurpation of powers. The High Court does not re-assess or re-analyse the evidence and/or materials on record. Whether the High Court would exercise its writ jurisdiction to test a decision of the Rent Control Tribunal would depend on the facts and circumstances of the case. The writ jurisdiction of the High Court cannot be converted into an alternative appellate forum, just because there is no other provision of appeal in the eye of the law.”

11. In the case of **Ajay Singh Vs. Khacheru & Ors. (supra)**, limits of the exercise of writ jurisdiction were expounded as under:

“38. Though powers of a High Court under Articles 226 and 227 are very wide and extensive over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction, such powers must be exercised within the limits of law. The power is supervisory in nature. The High Court does not act as a court of appeal or a court of error. It can neither review nor reappreciate, nor reweigh the evidence upon which determination of a subordinate court or inferior tribunal purports to be based or to correct errors of fact or even of law and to substitute its own decision for that of the inferior court or tribunal. The powers are required to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts and inferior tribunals within the limits of law”.

12. On the aforesaid touchstone, reverting to the facts of the case at hand, it becomes evident that, the Courts below have recorded the concurrent *prima facie* findings of fact that, the

plaintiff failed to establish possession over the suit land. The said findings appear to be based on the extract of the list of the lands which were acquired for the rehabilitation of the project affected persons. At Serial No. 18 of the said list, the description of the land which was acquired out of Gat No. 410 has been furnished. On the southern side of the said 80R land runs Pune – Solapur Highway.

13. Mr. Nikte attempted to salvage the position by canvassing a submission that, the list contained the particulars of the land then proposed to be acquired and the said list was not final. The Courts below were not prepared to accede to the said submission, and rightly so. Apart from the said list, there were contemporaneous documents including the requisitions sent to the Revenue Authorities to mutate the lands in the names of the project affected persons to whom the respective lands were allotted and the resultant mutation entries which lent credence to the claim of the defendants. Moreover, the boundaries shown in the said list of acquired land and the contemporaneous record, correspond with the boundaries shown in the map prepared by the Deputy Superintendent of Land Records vide MR No. 30721/2020. In the face of aforesaid material, the

Courts below were indeed justified in placing implicit reliance on the contemporaneous record.

14. The entire case of the plaintiff appears to hinge on the communication purportedly addressed by the Special Land Acquisition Officer on 18th May, 1984 to the brother of the plaintiff, wherein the boundaries of the acquired land were shown. The said document cannot be read torn out of context, and, in isolation. At this stage, the contemporaneous record outweighs the description of the property contained in a communication purportedly addressed by the Special Land Acquisition Officer. Moreover, the stoic silence on the part of the plaintiff for over 35 years, and failure to place on record any credible material to demonstrate that, the plaintiff had been in possession of the suit land, *prima facie*, eroded the claim of the plaintiff.

15. In the aforesaid view of the matter, at this juncture, this Court does not find any justifiable reason to interfere with the impugned orders, in exercise of supervisory jurisdiction.

16. So far as, the demarcation map which was sought to be tendered before the Court, suffice to note that, the plaintiff will

have to lead cogent evidence to co-relate the said map, especially the location of the acquired land, with the suit land at the stage of final adjudication. It would be impermissible for this Court to interfere with the impugned orders by appreciating the said material which was sought to be tendered before this Court.

17. Resultantly, the Writ Petition deserves to be dismissed. Hence, the following Order:-

:: O R D E R ::

- i) The Writ Petition stands dismissed.
- ii) Rule discharged.
- lii) By way of abundant caution, it is clarified that, the observations in this judgment are confined to determine the legality, propriety and correctness of the impugned judgment and order, and the Trial Court shall not be influenced by any of the observations made hereinabove while adjudicating the suit.
- iv) The Trial court is requested to hear and decide the suit as expeditiously as possible.

No costs.

[N. J. JAMADAR, J.]