



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

PUBLIC INTEREST LITIGATION NO. 28/2021

(SANDEEP BADRIPRASAD AGRAWAL **VERSUS** UNION OF INDIA & OTHERS)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Smt. R.D. Raskar, counsel, for the petitioner.
Shri D.P. Thakare, Additional Government Pleader for the respondent no.2.
Smt. S.S. Jachak, counsel for the respondent no.3.
Shri S.K. Mishra, Senior Advocate with Shri Ayush Sharma, counsel for the
respondent no.4.
Ms A.H. Dangre, counsel for the respondent no.5.

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

DATE : FEBRUARY 07, 2024

Leave to amend the cause title of the proceedings. 'Divisional Commissioner, Civil Lines, Nagpur' be added as the respondent no.6.

2. On October 27, 2021, this Court had noted that the respondent no.3-Nagpur Improvement Trust had addressed a communication to the respondent no.4-Maharashtra Metro Rail Corporation Limited on February 27, 2020 to pay compensation of Rs.19,20,40,946/- for loss of profit due to foreclosure of the Water and Amusement Park.

3. The said Water and Amusement Park appears to have been established by an agreement dated September 04, 2002 entered into between the respondent no.3-Nagpur Improvement Trust and the respondent no.5-M/s Haldiram Foods International Private Limited, Nagpur. The period for which the said agreement was to be in operation as reflected from Clause 4.1 is 1+15 years from the date of execution – signing of the agreement i.e. September 04, 2002. As such, the agreement was to be in existence for a period of sixteen years i.e. till September 03, 2018.

4. This Court had noted about the award of compensation as per the directions of the High Level Committee. It is also noted that the petitioner was informed by the Divisional Commissioner, Nagpur that the report of such High Level Committee, which is formed to be the basis for ordering payment of compensation by the respondent no.3 to the respondent no.5 from the respondent no.4, is not in existence. As such, this Court had caused notice in the matter.

5. Thereafter on November 30, 2022; January 18, 2023 and June 14, 2023, the matter was adjourned so as to enable the parties to file their reply. In spite of the adjournments granted by this Court, none of the respondents have filed their reply except the respondent no.4.

6. Perusal of reply of the respondent no.4 depicts that it has executed the work of 4692.896 square meters of land out of land Khasra Nos.9, 10 and 11 of Mouza Ambazari. It is also stated in the reply that the meeting of the High Level Committee, which was chaired by the Divisional Commissioner, Nagpur and also attended by the Collector, Nagpur; Commissioner, Nagpur Municipal Corporation had taken a decision *vide* order dated January 20, 2020 to determine the compensation of Rs.19,20,40,946/- being paid to the respondent no.5 for foreclosure of existing Water and Amusement Park.

7. It is further claimed that the respondent no.3-Nagpur Improvement Trust and the respondent no.4-Nagpur Metro Rail Corporation have jointly decided to develop the Water and Amusement park on the said land. It is further stated in the said reply that the agreement between the respondent nos.3 and 5 referred to above puts the respondent no.5 in the possession and as such taking over of possession and payment of compensation issue is required to be sorted out by the respondent no.3 only.

8. When confronted, Shri S.K. Mishra, learned Senior Advocate would state that the respondent no.3 – Nagpur improvement Trust and the respondent no.4 - Nagpur Metro Rail Corporation Limited are in a joint possession of the said property after taking over the same from the respondent no.5.

9. We hardly see any pleadings to that effect. The respondent nos.2 and 3, who are the contesting parties have chosen not to file their reply in spite of seeking adjournments. As such, we saddle costs of Rupees Ten Thousand on the respondent nos.2 and 3 each, to be paid to the High Court Bar Library, Nagpur before the returnable date.

10. We direct the respondent nos.2 and 3 and the newly added respondent no.6 to produce the original record which led to the decision of meeting of High Level Committee and all the minutes and proceedings of such meetings. We further direct the respondent nos.2, 3 and 4 to file a categorical affidavit stating with whom the possession of the land in question vests.

11. We also expect the response of all the respondents on the issue involved in Writ Petition No.2542 of 2020 preferred by the respondent no.5 seeking release of compensation and under which authority they have taken a decision to award compensation in favour of the respondent no.5 and the basis for evaluation of such compensation. We expect the affidavit of respondent no.6-Divisional Commissioner, Nagpur on the said issue.

12. We post the matter for further consideration on February 21, 2024.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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