

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

WRIT PETITION NO. 7225 OF 2018

Shri Mahavir @ Pawan s/o Shashikant Bhalgat

Vs.

State of Maharashtra, Thr. The Secretary, Revenue Department
(Rehabilitation), Mantralay, Mumbai & Ors.

Office Notes, Office Memoranda of Coram,
Appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri N.G. Moharir, Advocate for the petitioner.
Ms. H.N. Prabhu, A.G.P. for respondent Nos. 1 to 3.
Shri Tariq Zaheer, Advocate for the respondent No.4.

**CORAM: R.K. DESHPANDE &
 PUSHPA V. GANEDIWALA, JJ.**

DATED : 23rd OCTOBER, 2020.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. This petition claims the reliefs as under:

“A. Quash & Set aside the Award dated 05.07.2011 passed by respondent No.3 in Land Acquisition Case No. 8/LQN/2006-07, to the extent of land at Gat No. 293 admeasuring 0.40 hector at Mauza Bela Tah. & District Bhandara. (ANNEXURE – I).

B. Direct the Respondents to exempt and release land at Gat No. 293 admeasuring 0.40 hector at Mauza Bela Tah.

& Dist. Bhandara from Land Acquisition Case No. 8/LQN/2006-07.

C. Direct Respondents not to take any actions in respect of land at Gat No. 293 admeasuring 0.40 hector at Mauza Bela Tah. & Dist. Bhandara during pendency of this petition.

D. Pass any other order as this Hon'ble Court deems fit in favour of Petitioner, interest of justice."

3. It further claims the relief of directions to the respondents to exempt and release the said land from acquisition.

4. On 07.10.2020, we passed an order as under:

"Hearing was conducted through Video Conferencing and the learned counsel for the parties agreed that the audio and visual quality was proper.

The petitioner is the owner of Gat No. 293 ad measuring 0.40 hector at Mauza Bela, Tahsil and District Bhandara, which is the subject matter of award dated 05/07/2011 passed in Land Acquisition Case No.8/LQN/2006-07.

The petitioner claims that he has not collected the amount of award and the land in question is not required by the respondents. Reliance is placed upon the communications

dated 02/09/2013, 28/09/2013 and 16/02/2015 annexed to the petition in support of the claims that the land is not required and that the petitioner has not collected the amount of award. The petitioner wanted to sale this land and the prospective buyer is ready to purchase it.

The notice was already issued for final disposal of the matter on 30/01/2019, but on 10/06/2019, the matter was admitted. The reply is not filed by the respondents as yet.

The matter can be disposed of, if the land is not required and the petitioner has not collected the amount of award.

The respondents are therefore directed to examine this aspect of the matter and make a positive statement before us as to whether the land is really required for acquisition and whether the petitioner has collected the amount of compensation in terms of the award. If, according to the respondents, the land is not required and the amount is not collected then immediate steps can be taken in accordance with law to release the land from acquisition. The petitioner claims to be in possession of the land in question.

Put up this matter on 23/10/2020. If the reply is not filed on or before that date, costs of Rs.25,000/- will have to be paid by the respondents.

The order be communicated to the

counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.”

5. In response to the aforesaid order, the affidavit filed by the respondent Nos. 2 and 3 shows in para-10 that the petitioner has failed to withdraw the compensation amount and to deliver the possession of the land to the acquired body.

6. We repeatedly put a question to the learned counsel appearing for the acquiring body as well as the State Government and the Collector, to state as to whether the possession and the land in question has been taken or not. The specific reply is that the possession as till this date is not been taken over either by the acquiring body or the agencies of the State Government. We are also informed by the learned counsel appearing for the acquiring body that the land in question is not required for the project now.

7. We, therefore, do not find any impediment in issuing the notification under Section 48 of the Land Acquisition Act, to withdraw the land in question from acquisition. Merely because the award is passed, the land supposed to be acquired does not vest in the State Government. This is clear from Section 16 of the Land Acquisition Act.

8. We, therefore, direct the respondents to take immediate steps to issue notification under Section

48 of the Land Acquisition Act, within a period of two weeks from today.

9. Put up this matter after two weeks.

10. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

JUDGE

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