

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).5212/2004

(From the judgment and order dated 01/10/2003 in WP No.4930/2003 which
is wrongly recorded as WP No.7165/2003 of The HIGH COURT OF BOMBAY)

HARIPRASAD MANGALDAS BHAVSAR & ORS.

Petitioner(s)

VERSUS

PRINCIPAL SECRETARY AND ORS.

Respondent(s)

(With office report)

Date: 08/08/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE RUMA PAL

HON'BLE DR. JUSTICE AR. LAKSHMANAN

For Petitioner(s)

Mr. M.C. Bhandare, Sr.Adv.

Mr. M. Qamaruddin, Adv.

Ms. M. Qamaruddin, Adv.

Mr. Ambar Qamaruddin, Adv.

Ms. Ritu Bhardwaj, Adv.

For Respondent(s)

Mr. Ravindra K. Adsure, Adv.

for Mr. V.N. Raghupathy, Adv.

Mr. Shivaji M. Jadhav, Adv.

UPON hearing counsel the Court made the following

O R D E R

ken the The Award appears to be prima-facie erroneous, in that, it has ta

894 date of the original Notification under Section 4(1) of the Land Acquisition Act, 1

ation (the 'Act' for short) and not the date of the modified Notific
published on

11.3.2004 as the basis for calculating the compensation payable. Under normal
cir-

cumstances, the Award would have

..2/-

.2.

been set aside on this ground alone. However, learned counsel for the petitioners states
that for this limited purpose his clients will not raise a grievance while challenging the
quantum given under the Award. In other words, his clients will not raise the grievance
that the basis of calculation was a wrong date in any reference, they may file under Sec-
tion 18 of the Act.

8 re- Learned counsel appearing on behalf of respondent Nos.1 to 6 and

requested for time to take necessary instructions as to within which time the payment of
the awarded amount can be made to the petitioners.

The second grievance of the petitioners relates to the fact that although the
original Notification under Section 4(1) sought to acquire 68 Ares of the petitioners'
land, by the modified Notification published on 11.3.2004 15 Ares remained to be ac-

quired and the Award was limited only to the balance 53 Ares. According to Mr.

Ravindra K. Adsure, learned counsel representing respondent Nos.1-6 and 8, the

Award had only considered the land covered by the modified Notification and there was no question of passing of any Award in respect of 15 Ares in the absence of any request being made by the Municipal Corporation of Malegaon to acquire the land. The original request had lapsed by the modification of the original Notification under Section 4(1) of the Act. Learned

..3/-

.3.

counsel appearing for the petitioners draws our attention to a letter No.381/2005-2006 dated 1st August, 2005 written by the Commissioner, Malegaon Municipal Corporation to the effect that they had already resolved to ask for acquisition of the 15 Ares of land. Learned counsel appearing on behalf of Malegaon Municipal Corporation (respondent No.7 herein) has stated that his clients are willing to take over 15 Ares of land. Learned counsel appearing for the remaining respondents (1-6 & 8) requests for some time to take instructions as to how long it will take to issue 4(1) Notification in respect of the balance land.

List after four weeks.

The copy of the letter written by the Malegaon Municipal Corporation to the petitioners' representative be made available to the learned counsel appearing for respondent Nos.1-6 & 8.

Sarita

(Madhu Saxena)

Court Master