

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Part-Heard

Petition(s) for Special Leave to Appeal (Civil) No(s).18614/2004

(From the judgement and order dated 29/11/2003 in WP No.4752/1995
of the HIGH COURT OF BOMBAY)

SHOBHADEVI NARSINH SHINDE & ORS.

Petitioner(s)

VERSUS

THE SECRETARY, GOVT. OF INDIA & ORS.

Respondent(s)

(With appln(s) for accepting dim impression of additional document
and permission to file additional documents and office report)
(FOR FINAL DISPOSAL)

Date: 23/09/2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.H. KAPADIA

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Petitioner(s) Mr. R.F. Nariman, Sr.Adv.

Mr. Chinmoy Khaladkar, Adv.

Mr. Vimal Chandra S. Dave,Adv.

For Respondent(s) Mrs. K. Amareswari, Sr.Adv.

Mrs. Kiran Bhardwaj, Adv.

Mrs. Anil Katiyar,Adv.

UPON hearing counsel the Court made the following
ORDER

A citizen's land continues to remain under requisition from 1942.

This land is a vacant land bearing Survey No.47 Hissa No.4-C/2,
admeasuring about 2 Hectres and 3 Ares (5-1/2 acres approx.) situate at Village
Bopodi, Pune City, within the limits of Pune Municipal Corporation.

...2/-

SLP(C) 18614/04...contd..

-2-

During Word War-II, Government of India (GOI) issued a requisition
order in respect of the above land for the purpose of parking unfit vehicles. On 8 th
September, 1945, the II World War came to an end and yet the land was not
released.

On 4th October, 1971, the State Government issued a Notification under
Section 4 of the Land Acquisition Act, 1894 (for short, the Act) and declared that
the said property was required for public use, namely, tented hospital. The Award
was passed in 1982 under the Act.

Petitioners herein accepted part of

compensation under protest and asked for a reference under Section 18 of the Act. That reference was dismissed against which the petitioners preferred Appeals which are pending in the High Court.

In 1981, after almost ten years, petitioners instituted Special Civil Suit No.317 of 1981 in the Civil Court, Pune against the GOI challenging the acquisition proceedings under the Act itself and for possession of the property. The Suit is stated to be still pending.

As the Civil Court's jurisdiction was taken away in 1995, a Writ Petition was filed in that year which came to be dismissed by the impugned judgment against which this Special Leave Petition is filed.

...3/-

SLP(C) 18614/04...contd..

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Briefly, it may be mentioned that in the Writ Petition, an important question of law has been raised, namely, whether without releasing the property under the provisions of the Requisitioning and Acquisition of Immovable Property Act, 1952, the same property could be acquired under the provisions of the Land Acquisition Act, 1894?

In the present case, although we realize that the question of law is of importance, we find that there is inordinate delay on the part of the petitioners in filing the Suit after ten years. On the other hand, at the same time, the land remains unutilized ever since the acquisition by the acquiring body. It is further admitted in the counter affidavit that the land could not be utilized for want of funds. Moreover, for all these years, the petitioners have been assured by the respondent that the land would be released and, on that assurance, the petitioners appear not to have challenged the acquisition. Therefore, we are of the view that the fault lies with both the sides and, in the peculiar facts and circumstances of this case, we are of the considered opinion that the Government should consider releasing half of the area in favour of the petitioners. This would subserve the ends of justice. Such an order would not constitute any precedent.

...4/-

SLP(C) 18614/04...contd..

Stand over for eight weeks.

To be treated as part-heard.

(N. ANNAPURNA)
COURT MASTER

(MADHU SAXENA)
COURT MASTER