

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3438 OF 2013

Prasad Mangal Karyalay Pvt. Ltd. .. Petitioner
Vs
Nashik Municipal Corporation and Others. .. Respondents

—
Shri P.J. Thorat for the Petitioner.
Shri M.L. Patil for Respondent Nos.1 and 2.
Mrs. M.P. Thakur, AGP for Respondent No.3.
—

CORAM : A.S. OKA & A.K.MENON, JJ
DATED : 4TH MARCH 2015

P.C.

. Heard learned counsel appearing for the Petitioner, the learned counsel appearing for the First and Second Respondents and the learned AGP for the third Respondent-State.

2. Prayer clause (a) of this Petition reads thus:

“(a) That by and appropriate Order/Writ/Direction of this Hon'ble Court, it be declared that the reservation of Playground on the said Property i.e. Final Plot No.434, admeasuring 9740 Sq.Mtrs out of Survey No.705/2/1/62, Town Planning Acheme, Nashik II, reserved for play ground situated at: Gangapur Road, Nashik, within the limits of the Nashik Municipal Corporation has lapsed.”

3. This Petition is based on a Notice dated 13th May 2005 served by the Petitioner under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 (for short “the MRTP Act”) to the First

Respondent Nashik Municipal Corporation in relation to the land described in prayer clause (a). The learned counsel appearing for the Petitioner pointed out that even going by the stand taken by the First Respondent Municipal Corporation in its reply, by operation of Section 127 of the MRTP Act, the reservation has lapsed. However, on instructions, he states that the possession of the said land admeasuring 9740 sq. meters was taken over by the First Respondent Municipal Corporation and in fact, a jogging track has been made on the said land by the First Respondent Municipal Corporation. On instructions, he states that in view of this development, the Petitioner is pressing only prayer clause (d) which reads thus:

“(d) That in the alternative this Hon'ble Court may be pleased to issue a Writ of mandamus or any other appropriate Writ, Order and/or direction in the nature of mandamus, directing the Respondents herein to forthwith complete the procedure for acquisition of the balance area admeasuring 9740 sq. mtrs., from Survey No.705/2/1/2/62 situated at Nashik within a period of 3 months.”

4. The learned counsel appearing for the First and Second Respondent invited our attention to the affidavit in reply of Shri Bhaskar Uddhavrao More, the Estate Manager of the First Respondent which is dated 16th August 2014. He pointed out that the proposal for acquisition is pending with the State Government. He pointed out the steps taken in the matter of acquisition. The learned AGP has no instructions regarding the status of the acquisition proceedings.

5. We have perused the affidavit of Shri Bhaskar U. More. The affidavit records that a proposal for acquisition of the said land was submitted by the First Respondent Municipal Corporation which was eventually sent to the office of the District Collector, Nashik on 14th November 2005. It is stated that on 24th August 2006, a corrected proposal was submitted. Again on 18th June 2009, a corrected proposal was submitted before the District Collector, Nashik. On 12th September 2010, measurement fee of Rs.4,28000/- has been paid by the First Respondent. On 23rd August 2012, a direction was issued by the Deputy Collector (Land Acquisition) No.2 to the City Survey Officer No.1 to measure the lands. Accordingly, on 5th October 2012, the land was measured. The last step which is set out in the affidavit is of the Deputy Collector (Land Acquisition) No.2, Nashik informing the City Survey Officer No.1 to submit a report and a map of the measured land as early as possible.

6. Initially, the acquisition proposal was forwarded to the Collector's officer on 14th November 2005. Even the present proposal has been under process since 2009. It appears that there was a delay on the part of the State Authorities in carrying out the work of the measurement and survey of land to be acquired. The Petitioner has reiterated that the possession of the said land has been taken over by

the First Respondent Municipal Corporation for the purposes of jogging track. We accept the said statement. This statement shows that the Petitioner has been already deprived of the said land subject matter of reservation. Therefore, the State Government will have to take all possible steps to ensure that the acquisition proceedings are completed and final award is made as expeditiously as possible. Considering the facts of the case, the acquisition proceedings will have to be completed by 30th November 2015.

7. Hence, we dispose of the Petition by passing the following order:

ORDER :

- (a) We direct the Third Respondent to complete the acquisition proceedings in relation to the land described in the prayer clause (a) as expeditiously as possible and in any event on or before 30th November 2015;
- (b) We make it clear that an award shall be declared on or before the aforesaid date;
- (c) We direct the First Respondent Nashik Municipal Corporation to produce an authenticated copy of this

Judgment and Order in the office of the Deputy Collector (Land Acquisition) Officer No.2, Nashik.

- (d) The Deputy Collector shall act upon an authenticated copy of this Judgment and Order;
- (e) We direct the First Respondent to submit an authenticated copy of this Judgment and Order to the District Collector, Nashik. The District Collector, Nashik shall issue necessary direction to the Deputy Collector No.2, Nashik to ensure that the acquisition proceedings are completed on or before 30th November 2015 as directed above;
- (f) The Petition is disposed of on above terms;
- (g) All concerned to act upon an authenticated copy of this Judgment and Order.

(A.K.MENON, J)

(A.S. OKA, J)