

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2172 OF 2014

Netaji Nagar Co-operative Housing Societies Union Ltd. ... Petitioner

Vs.

State of Maharashtra & anr.

... Respondents

Mr.Uday warunjikar for the Petitioner

Mr.D.A. Nalavade, Government Pleader, for Respondent No.1

Ms.Kiran Bagalia i/b Chitra Phadke for Resp. No.2

**CORAM: SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.**

DATE: 10th FEBRUARY, 2015

P.C.:

By this petition, the petitioner society seeks a direction to the respondents to return the unused land to the petitioner. The petitioner also seeks a direction to the respondents to shift the underground water tank and the pump house of the petitioner society and reconstruct the same at an appropriate place.

The land of the petitioner was acquired under the provisions of the Mumbai Metropolitan Region Development Authority Act, 1974 for the purpose of widening of the Santacruz Chembur Link Road. The possession of the land was taken in the year 2011. According to the

Petitioner society, the construction of the road has resulted in rendering the two buildings of the petitioner society on one side of the road and the water tank with the overhead pump on the other. It is stated that since the land of the petitioner society is not required for the purpose of widening of the road as the respondents have handed over a piece of acquired land for the purpose of construction of a Hanuman temple, it would be necessary to direct the respondents to hand over the unused land to the petitioner – society.

On hearing the learned Counsel for the parties, it appears that the relief sought by the petitioner cannot be granted. The respondents have acquired the lands of the petitioner under the provisions of the Act of 1974 and in view of the issuance of the notification under section 32, the land vests absolutely in the State Government. The petitioner, therefore, cannot seek a direction to the respondents to return the land to the petitioner society. We also do not find that the respondents have not utilised the land for the widening of the Santacruz Chembur Link Road. The land is deemed to have been acquired for a public purpose and merely because the respondents may have permitted some trust to shift the Hanuman temple for the purpose of road widening, it cannot be said that the petitioner would be entitled to seek a direction to the respondents to

return the acquired land to the petitioner. Also, a direction cannot be issued to the respondent to shift the underground water tank and the pump house and reconstruct the same at an appropriate place.

Since the relief sought by the petitioner cannot be granted, the Writ Petition is dismissed with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)