

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2431 OF 2015

Baliram Janaji Barbuddhe and others

-vs-

Maharashtra Industrial Development Corporation, Nagpur, thr.its Regional Officer & ors...

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. H. D. Dangre, counsel for the petitioners.
Mr.M.M.Agnihotri, counsel for the respondent No.1.
Mr. D. B. Patel, AGP for the respondent Nos.2 and 3.

CORAM : SMT. VASANTI A. NAIK &
A.I.S.CHEEMA, JJ.

DATE : 29.10.2015.

By this petition, the petitioners seek direction to the respondent-Maharashtra Industrial Development Corporation to revisit/reconsider the need to set up the industrial area and to acquire the land of the petitioners in Mouza Nimgaon, Tahsil Arjuni Morgaon. In the alternative, the petitioners have prayed that if it is found that there is still a need to set up a small scale industrial area in the region, a direction be issued to the respondents to initiate the acquisition process afresh in accordance with the prevailing law and grant compensation to the petitioners/affected landholders at the prevailing market value.

The land of the petitioners was acquired by the respondent-Maharashtra Industrial Development Corporation by the acquisition proceedings initiated in the year 1993. The Award was passed under Section 33 of the Maharashtra Industrial Development Act and the petitioners were paid compensation towards the acquisition of their land in the year 1997. According to the petitioners, since the Corporation has not made any development over the land during the past 15 years, the Corporation cannot now venture to develop the land that is acquired in the year 1997. According to the petitioners, there is a delay on the part of the Corporation in using the land for

the purpose for which it was acquired. It is stated that the long delay in utilizing the land for the purpose for which it was acquired, vitiates the acquisition proceedings and hence, the petitioners are entitled to compensation as per the prevailing market rates. The learned counsel for the petitioners has relied on the judgment in the case of Bondu Ramaswamy v. Bangalore Development Authority, reported in (2010) 7 SCC 129 to substantiate the submission. The learned counsel has relied on the judgments reported in (2013) 1 SCC 353 (Tukaram Kana Joshi v. MIDC), (2011) 10 SCC 608 (Royal Orchid Hotels v. Jayarama Reddy) and 1999 (2) Mh.L.J. 799 (Shah Hyder Beig v. State of Mah.) to canvass that the delay in filing the petition would not affect the challenge to the acquisition proceedings.

Shri Agnihotri, the learned counsel for the respondent No.1, submitted that the land of the petitioners has been acquired after following the procedure laid down in the Maharashtra Industrial Development Act. It is stated that after the Award was passed in the matter of the acquisition of the land of the petitioners, the petitioners were paid the compensation. It is stated that the petitioners have received the compensation in the year 1997 without challenging the acquisition proceedings. It is stated that plots were chalked out in the acquired land and the lease deeds are sought to be executed in favour of private parties for industrial development. It is stated that the petitioners do not have a right to recover their land from the Corporation and seek compensation at the prevailing market rates.

On hearing the learned counsel for the petitioners and on a perusal of the documents annexed to the petition and the affidavit-in-reply, it appears that the relief sought by the petitioners cannot be granted. The land of the petitioners was acquired 15 years earlier and the petitioners had received the compensation without a demur. The petitioners were not aggrieved by the acquisition of their land and they did not file any proceedings challenging the acquisition. Merely because the Maharashtra Industrial Development Corporation did not immediately start the development on the land that was acquired, no right would be created in favour of the petitioners to seek the restoration of their land, after they are validly acquired. The petitioners have mainly sought the restoration of their lands in view

of the delay by Maharashtra Industrial Development Corporation in developing the same for the purpose for which it was acquired. Nothing is pointed out by the petitioners to show any right in the petitioners to seek the restoration of their land if there is some delay on the part of the acquiring body to utilize the land for the purpose for which it was sought to be used. The acquired land has been earmarked into plots and the plots are sought to be allotted to private parties for industrial development. Nothing has been pointed out on behalf of the petitioners that would entitle the petitioners to seek compensation at the prevailing market rates. The petitioners had received the compensation without protest and had not challenged the acquisition. The judgment reported in the case of **Bondu Ramaswamy v. Bangalore Development Authority**, reported in **(2010) 7 SCC 129** cannot be made applicable to the facts of this case. So also, the reliance placed by the learned counsel for the petitioners on the judgments, reported in **(2010) 1 SCC 353, (2011) 10 SCC 608 and 1999 (2) Mh.L.J. 799** is not well founded. It is held in the said judgments that delay and laches would not come in the way of the Court in entertaining the writ petition where the acquisition of the land is for a non existent public purpose or the acquisition of the land is due to colourable and fraudulent exercise of powers. There is no challenge in the writ petition that the acquisition is for a non existent purpose or the same is due to colourable or fraudulent exercise of power or fraudulent diversification of the purpose for which the land was acquired. Admittedly, the land was acquired for industrial development and the Corporation has started industrial development on the said land. The aforesaid judgments would, therefore, not be helpful to the case of the petitioners.

Since the relief sought by the petitioners cannot be granted, the writ petition is dismissed with no order as to costs.

JUDGE

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