

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No.7190 OF 2014

Tejram s/o Tulsiram Bichhore through Power of Attorney Janardhan s/o
Tejram Bichhore

-Vrs.-

The State of Maharashtra, through Ministry of Urban Development,
Mantralaya, Mumbai and 5 others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. S.G. Karmarkar, counsel for petitioner.
Mr. Rao, AGP for respondent nos. 1 to 3 & 6.
Mr. D.N. Mathur, counsel for respondent nos. 4 & 5.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : 6th OCTOBER, 2015

After hearing counsel for petitioner this Court has on 20.12.2014 passed a reasoned order while issuing notice. This court then spelt out the question and also observed that the writ petition could be finally decided at the stage of admission.

On 6.5.2015, this Court noted contention of respondents that there is no lapsing under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 as compensation is paid to most of land holders. Order has thereafter been passed on said lines again on 26.6.2015. Lastly, on 28.8.2015 this Court noted contention of respondents that out of total thirteen land owners, nine had

received compensation and possession of land was taken from all thirteen land owners immediately after delivery of Award under Section 11 on 23.5.2004.

In this background, Advocate Karmarkar with Advocate Akole submits that as one of the land owners has not received compensation, the proviso to Section 24(2) operates and the said person, therefore, is entitled to benefit of lapsing. He contends that in any case such person must be paid compensation as per the new enactment. Support is being taken from **2015(2) Civil L J 739 (para-12) (Karnail Kaur and others Vs. State of Punjab and others)** and Division Bench Judgment of this Court reported in **2015(4) ALL MR 845 (Shrikant Shankarrao Daulatkar and Ors. Vs. State of Maharashtra and Ors.**

Learned AGP for respondent nos.1 to 3 & 6 and Advocate Mathur for respondent nos.4 & 5 opposed the petition. They state that owners of majority of land were paid compensation in 2004 itself while taking possession. The proviso to Section 24(2) saves the acquisition for lapsing and grievance of an individual like present petitioner cannot vitiate the completed acquisition proceedings. They also attempt to distinguish above mentioned rulings.

After hearing respective counsel, we find that petitioner has placed reliance upon contentions noted in para 12 of the judgment of the Apex Court in case of Karnail Kaur and others Vs. State of Punjab and others (supra). The findings in paragraph 23 have been lost sight of. Similarly, Division Bench judgment of this court in paragraph 6 does not consider

the impact of proviso to Section 24(2) on lines as alleged by petitioner. If holders of majority land have been paid compensation within five years and possession has been taken, that proviso does not operate. Thus, it operates only if the compensation in respect of majority of land holding acquired has not been deposited in the account of the beneficiaries. Despite specific orders of this court in this respect, the petitioner has not raised any such arguments. Said proviso does not come to the rescue of an individual if holders of majority of lands acquired are already paid the compensation.

In the light of arguments advanced we find that no case is made out warranting interference. Writ petition is, therefore, dismissed. Rule discharged. No costs.

JUDGE

JUDGE

Hirekhan