

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

C.A.W. NO.407/2016 IN WRIT PETITION NO. 6284/2015 (D)

(KUNDLIK NAMDEO DHAWALE & ANOTHER **VERSUS** DEPUTY COLLECTOR, NAGPUR & ORS)

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

Court's or Judge's orders

Shri M.V. Mohokar, counsel for the petitioners.
Shri P.S. Tembhare, A.G.P. for the R-1.

**CORAM : SMT.VASANTI A. NAIK AND
A.S. CHANDURKAR, JJ.**

DATE : MARCH 04, 2016.

Heard.

The learned counsel for the applicants states that the issue involved in this case was also involved in Writ Petition No.1834 of 1998 and this Court had, by the judgment dated 12.12.2014, allowed the said writ petition. It is stated that this judgment could not be pointed out to this Court on 08.01.2016 when Writ Petition No.6284 of 2015 was decided, as the counsel for the petitioner was not present, when the matter was called.

The learned Assistant Government Pleader states that the facts involved in both the petitions, i.e. Writ Petition No.6284 of 2015 and Writ Petition No.1834 of 1998, are entirely different. It is stated that both the writ petitions are decided on the basis of the facts involved therein and no specific law is applied while deciding the writ petitions, one in favour of the petitioner in Writ Petition No.1834 of 1998 and one against the petitioners in Writ Petition No.6284 of 2015. It is stated that though the applicants seek a recall of the order, the relief sought by the applicants would be in the nature of a review of the order dated 08.01.2016. It is stated that the order dated 08.01.2016 cannot be recalled on the aforesaid ground. The learned Assistant Government Pleader sought for the dismissal of the civil application.

We have heard the learned counsel for the parties and have perused the facts involved in Writ Petition No.1834 of 1998 and Writ Petition No.6284 of 2015. The facts involved in both the cases are entirely different. It appears that in the instant case, the Deputy Collector has refused to transfer the Project Affected Persons certificate from the petitioner no.1 to the petitioner no.2. It appears that in the instant case after the Award was passed in the land acquisition proceedings on 30.03.1972, the petitioner no.1 was appointed by the respondent nos.2 and 3 on 06.08.1979, after he secured the Project Affected Persons Certificate from the respondent no.1, on 22.03.1977. In this background, the respondent nos.2 and 3 sent a communication to the respondent no.1 informing the respondent no.1 that the petitioner no.1 was appointed on a post earmarked for the Project Affected Persons. The facts involved in the present case and Writ Petition No.1834 of 1998 are entirely different and the order dated 08.01.2016 cannot be recalled on the basis of the judgment dated 12.12.2014.

The prayer made in the civil application stands rejected.

JUDGE

JUDGE

APTE