

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4752 OF 2014
WITH
CIVIL APPLICATION NO. 1156 OF 2016

Shri Ananda Balu Kumbhar .. Petitioner
V/s
The State of Maharashtra & Ors. .. Respondents

Ms. Kinnari Hingol i/b Mr. Vishwajeet Mohite for the petitioner.
Mr. P.G. Sawant, AGP for the State.
Mr. Ankit Kulkarni i/b Little & Co. for respondent no.3.
Mr. Harish Pandya with Mr. Ashish Varma i/b Kookada & Associates
for the applicant in CAW No.1156/2016.

**CORAM: DR. MANJULA CHELLUR, CJ. &
G.S. KULKARNI, J.**

DATE : 27th MARCH 2017

P.C.:

We have gone through the earlier orders dated 20th February 2017 as well as 6th March 2017. On these two dates, at the request of learned advocate for the petitioner, the matter came to be adjourned. After 6th March 2017, the matter is listed today. Again time is sought by Ms. Hingol, proxy counsel for counsel on record for the petitioner. This is seriously objected to by learned advocate appearing for respondent not.3 – MIDC as well as the intervener who is beneficiary of the land in question.

2. On perusal of the affidavit and the documents filed along with the affidavit of respondent no.3, we notice that the present litigant is before this Court in the third round of litigation. The acquisition of land in question along with other lands was made by the State of Maharashtra for the purpose of Maharashtra Industrial Development Corporation (MIDC). The land came to be acquired for establishment of Five Star Industrial Estate. About 1093.10 hectares of land was the subject matter of acquisition. During the pendency of the acquisition proceedings, in Writ Petition No. 3712 of 1998 the very same petitioner approached this Court contending that he must be heard by the concerned acquiring authority since he has an interest in the land in question. Accordingly such liberty and direction to be heard was given in the said writ petition and the same came to be disposed of. Subsequently another writ petition came to be filed being Writ Petition No. 588 of 2003. After hearing the petitioner and passing an award, the said Writ Petition No. 588 of 2003 came to be disposed of by a Division Bench of this Court by its order dated 11th December 2003 making several factual observations after referring to the averments made by the respondents and the petitioner in the respective pleadings. To understand the present grievance of the petitioner, paragraphs 5, 6 and 7 of the said order are relevant, which read as under:

“5. It is pertinent to note that notification which is impugned in this writ petition was also impugned in the

earlier writ petition and though the Court issued directions for hearing the petitioners on concession, the Court did not set aside the notification under Section 32 in the petition. Apart from this, the contention of the learned counsel appearing on behalf of the petitioner is that only hearing was given as direction by this Court and no order has been passed.

6. From the above discussions, it will be seen that substantial compliance of provisions and directions of this Court has been made. Learned counsel appearing on behalf of MIDC relief upon judgment of the Supreme Court reported in the case of *Ramniklal N. Bhutta v. State of Maharashtra*, AIR 1997 SC 1236 and led stress on the following observations made by the Supreme Court:

“The Courts have to weigh public interest vis-a-vis the private interest while exercising the power under Article 226- indeed any of their discretionary powers. It may even be open to the High Court to direct in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong, quashing the acquisition proceeding is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor

advisable to say, we hope and trust that these considerations will be duly borne in mind by the Courts while dealing with challenges to acquisition proceedings.”

7. *Even if it is assumed that there has been some technical infraction of provisions of section 32, the project involves a huge industrial establishment of about 1050 hectars of land acquired and only handful of persons like the petitioners are trying to prevent by consistently litigating before various Courts agitating certain non-existing rights. In our opinion, the present case is squarely covered by the decision of the Supreme Court cited above and there is no reason to interfere at the instance of these handful people who have no rights for protection of which the entire project should be quashed. In the result, the petition fails and is dismissed with costs of Rs.750/-. Interim order if any stands vacated. Request for suspension of this order for two weeks is rejected. Civil Application also stands disposed of accordingly.”*

On perusal of these paragraphs, one has to appreciate the stand of the petitioner in the present writ petition. The present writ petition is filed mainly challenging rejection of the application filed by the petitioner under section 48(1) of the Land Acquisition Act of 1894 by order dated 9th January 2009 and also seeking payment of compensation including quashing of the relief by invoking the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. If the rights

of the parties already came to be expressed in the earlier order of the Division Bench by order dated 11th December 2003 and if the said order is not challenged by the present petitioner or any other petitioner, who were parties in the earlier litigation, the said order dated 11th December 2003 has reached finality in the absence of any modification or quashing or setting aside the order dated 11th December 2003. If the rights of the petitioner was already considered and rejected, we fail to understand what is left to be considered in an application filed under section 48(1) of the 1894 Act before the concerned Authority or in this writ petition where the petitioner has once again challenged not only the award which has reached finality, but also claimed compensation. It is nothing but interfering with the administration of justice by filing repeated writ petitions in spite of deciding the rights of the parties finally in the earlier round of litigation. That apart, though the matter came to be listed prior to this date, it came to be adjourned only at the request of learned advocate for the petitioner.

4. In that view of the matter, we are of the opinion that apart from interfering with the administration of justice, the petitioner has not shown any interest to proceed with the matter. Accordingly the writ petition is dismissed with costs of Rs.25,000/- to be paid to the High Court Legal Services Authority.

5. Learned counsel for the intervener/beneficiary seeks a

direction to put the beneficiary in possession of the land. We are afraid such relief cannot be considered in the above writ petition since it is alien to the lis raised before us. However, the beneficiary is at liberty to pursue its remedy strictly in accordance with the procedure contemplated. Accordingly, the civil application filed by the intervener is disposed of.

(G.S. KULKARNI, J.)

CHIEF JUSTICE