

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

WRIT PETITION NO. 4757/2012.

madhusudan Pandharinath Nand

-VERSUS-

State of Maharashtra and others.

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

Court's or Judge's Orders

**CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.**

DATE : JANUARY 09, 2017.

Heard Shri Anand Parchure, learned
Counsel for the petitioner, learned A.G.P. for
respondent nos. 1 to 3 and Shri N.D. Khamborkar,
learned Counsel for respondent no.4.

2. Admittedly land of petitioner has been
acquired in accordance with the Land Acquisition
Act, 1894 on 12.01.1970. That acquisition has
attained finality. On the basis of a policy decision
dated 10.10.1973, by which the State Government
has resolved to return such lands back to its
owners, Writ Petition No. 3052/1996 was filed

2

before this Court. On 03.09.2012, that Writ Petition was disposed of as withdrawn, as policy decision in the shape of government resolution dated 10.10.1973 was already quashed and set aside. Petitioner was however, given liberty to agitate his grievance in accordance with law.

3. Thereafter, present petition has been filed contending that land was lying fallow and it was not put to use for which it was acquired by respondent no.4 Punjabrao Krushi Vidyapeeth. It is further submitted that subsequent developments show that urgency clause was unnecessarily invoked, with an oblique motive, thereby denying the petitioner leave and right to cultivate his own land.

4. Shri Parchure, learned counsel submits that in the meanwhile the said land was sought to be acquired by Airport Development Authority for extension of Akola Airport, but, later on the expansion was shifted in other direction thereby relinquishing the land of petitioner from that project. He reiterates that even today the land is

3

lying fallow.

5. He has relied upon judgments of Hon'ble Supreme Court reported at (2011) 10 SCC 608 (Royal Orchit Hotel .vrs. Jaya Reddy); (2011) 12 SCC 375 (Greate Noida .vrs. Devendra Kumar); and (2012) 3 SCC 727 (Banglore City .vrs. State of Karnataka).

6. The arguments are being opposed by learned A.G.P. for respondent nos. 1 to 3, as also Shri Khamborkar, learned counsel for respondent no.4.

7. Shri Khamborkar, learned counsel submits that land is under cultivation of respondent no.4 Agricultural University.

8. The fact that acquisition has attained finality is not in dispute. Acquisition in 1970 was sought to be reopened because of government resolution dated 10.10.1973, and as that government resolution was found unsustainable by this Court, later on that Writ Petition was withdrawn. As Writ Petition was not considered

4

on merits, this Court on 03.09.2012 gave petitioner liberty to approach again.

9. Thus, after 1973 or when Writ Petition was filed in the year 1996, there was a government policy to return the land to owners and therefore, some cause of action. If the cause of action was destroyed, the acquisition which has attained finality, can be questioned only on some valid grounds.

10. Those valid grounds are being worked out by placing reliance upon above mentioned three judgments.

11. Observations of Hon'ble Supreme Court in paragraph no.36 to 40 of its judgment in case of Royal Orchid Hotel .vrs. Jaya Reddy (supra), show that there acquisition was found fraudulent and the acquiring body initially misled State and then had expressed its inability to pay the amount of compensation. It was passing over part of it to private persons with oblique design. It is these developments which have contributed to the final result in that matter.

5

12. In case of Greater Noida .vrs. Devendra Kumar (supra), again the acquisition was already found bad and there was a finding of absence of good faith. It is in the backdrop of these findings the challenge raised by the petitioner was looked into.

13. Perusal of judgment of Hon'ble Supreme Court in Bangalore City .vrs. State of Karnataka (supra), again reveals same logic.

14. In present matter acquisition is sought to be questioned for the first time in present litigation, that too almost after 42 years. There is no material to hold that provisions of the Act were invoked with oblique motive or any fraud has been played.

15. Respondent no.4 Krishi Vidyapeeth has come up with a case that it needs the land and it is actually under its cultivation. The possession of Punjabrao Krushi Vidyapeeth is not in dispute and for proposed expansion of Airport the land was to be acquired from Punjabrao Krishi Vidyapeeth only.

6

16. Thus, acquisition of land from Punjabrao Krishi Vidyapeeth for expansion of Airport or then subsequent dropping of that acquisition does not create any cause of action in favour of the petitioner.

17. We find the challenge belated as also unsustainable. Petition is, therefore, rejected.

18. At this stage, Shri Parchure, learned counsel for petitioner submits that interim orders restraining the respondents from creating any third party interest over the subject land was operating till date. He seeks continuation of the same for a reasonable period. Respondents are opposing the said request.

19. In this situation, as the matter was under consideration of this Court since 1996, we continue the interim orders for 8 weeks. The same shall automatically cease to operate thereafter.

JUDGE

JUDGE

Rgd.