

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

CIVIL APPLICATION O. NO.1636/2017

IN

MISC. CIVIL APPLICATION ST. NO.22747/2017

IN

WRIT PETITION NO.6884/2015 (D)

Vidarbha Irrigation Development Corporation, through Executive Engineer,
Gosikhurd Rehabilitation Division, Nagpur, Tal. and Dist. Nagpur

...Versus...

Mahesh s/o Sudhakar Shrungarpawar and others

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

Court's or Judge's orders

S/Shri V.G. Palshikar & A.R. Patil, Advocates for applicant
Shri T.A. Mirza, AGP for non-applicant nos.26 to 28 - State

CORAM : PRASANNA B. VARALE AND
ARUN D. UPADHYE, JJ.

DATE : 23.11.2017

1. Heard.
2. This is an application for condonation of delay. It is submitted that due to certain procedural difficulties the delay is caused in filing the application seeking review of the judgment and order dated 27/7/2017 passed by this Court in Writ Petition No.6884/2015.
3. Considering the grounds raised in the application and in view of the submissions made by the learned Counsel for the applicant, we allow the civil application.

The civil application stands disposed of.

MISC. CIVIL APPLICATION ST. NO.22747/2017

1. This is an application filed by the applicant seeking review of the judgment and order passed by this Court on 27/7/2017 in Writ Petition No.6884/2015. The applicant is the original respondent no.4, i.e. acquiring body. The petitioners approached this Court challenging the award passed by the Special Land Acquisition Officer on 30/10/2014. It was the submission of learned Counsel for the applicant that certain petitions were pending before the Aurangabad Bench of this Court and certain interim orders were passed but these facts were not taken note of. The learned Counsel therefore prays for review of the judgment and order of this Court.

2. We have gone through the judgment and order of this Court dated 27/7/2017 in Writ Petition No.6884/2015. We find that the ground was raised before this Court at the instance of respondent nos.1 to 3 that the Aurangabad Bench of this Court in the certain proceedings pending before it, took into consideration this submission and in clear words observed as under :-

“We do not find any merit in the submission made on behalf of the respondent nos.1 to 3 that since there was a stay to the proceedings by the Aurangabad Bench, the State Government decided not to proceed with the land acquisition proceedings. We are afraid that Writ Petition No.4274 of 2014 that was pending before the Aurangabad Bench had no relation with the land acquisition proceedings in this case. The

Aurangabad Bench had merely stayed the effect and operation of the notification dated 19.03.2014 which pertains to the multiplier.”

3. This Court found that there was a ground to believe that the record was not maintained properly and may be for some ulterior motive. This Court also found that the option of initiation of the proceedings afresh under the new Act would cause a great financial burden on the respondent no.4, i.e., acquiring body, that is, applicant who is before us seeking review of the order.

4. Considering all these facts and also considering the fact that there was something fishy in the matter, this Court thought it fit to direct the respondent no.1 to conduct an enquiry against the respondent nos.2 and 3 and the other concerned and take an appropriate action against them in accordance with law. This Court while allowing the petition declared that the land acquisition proceedings have lapsed in view of Section 11-A of the Land Acquisition Act and directed the respondent no.1 to take appropriate action against the respondent nos.2 and 3 and other concerned, in accordance with law.

5. We find that no ground is raised before us to show that in the judgment and order passed by this Court on 27/7/2017 in Writ Petition No.6884/2015 it can be said that there is an error apparent on the face of record. All the grounds raised by the learned Counsel for the applicant are touching to the merit of the matter. Certainly, this Court considering the application seeking review cannot reassess or re-appreciate the merits of the matter. If the applicant is aggrieved by the judgment and order on merits,

the applicant can certainly avail the remedies available to it including approaching the higher forum. No case is made out for allowing the application seeking review.

6. The misc. civil application thus being thoroughly meritless deserves to be dismissed and the same is accordingly dismissed. No costs.

JUDGE

JUDGE

Wadkar