

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

Cri. Writ Petition No.984 of 2016

(Prof. Prabhakar Kashinath Shende & others -vs.- Nagpur Metro Rail Corporation Ltd., thr. its
G.M. & others)

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

Court's or Judge's orders.

Mr. R.D. Dhande, Advocate for Petitioners.
Mr. K. Deogade, Advocate for Respondent Nos.5, 8 to 10
12 & 13.
Mr. S.N. Tapadiya holding for Shri V.V. Bhangde for
Respondent No.2.
Mr. S.M. Ukey, Addl.P.P. for Respondent No.1.

**CORAM : R.K. DESHPANDE &
MANISH PITALE, JJ.**

DATE : 16.08.2017.

By this writ petition the petitioners have made diverse prayers seeking reliefs regarding compensation for alleged illegal detention and alleged illegal demolition of building of land Survey No.70, situated at Parsodi, Grampanchayat Khapri (Railway), Tah. Nagpur (Rural), Dist. Nagpur. It is an admitted position that the aforesaid land was subject matter of Land Acquisition Proceeding under the provisions of the Land Acquisition Act, 1894 and an award was passed on 16.02.2009 in respect of the same. It is also an admitted position that none of the petitioners raised any

grievance against the said award and that it became final.

2. Perusal of record also shows that the authorities took possession of the land on 09.02.2015 in pursuance of the said award under Section 16 of the Land Acquisition Act, 1894. Upon possession being taken, land has vested absolutely in the State Government.

3. It is further noted that the petitioners had approached this Court by way of W.P. No.1358/2016 by challenging the award passed by the Special Land Acquisition Officer, in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. By an order dated 03.05.2016 the said Writ Petition was dismissed by this Court. The following extract of the said order is relevant for the present petition :-

"On hearing the learned Counsel for the parties and on a perusal of the provisions of Section 24(2) of the Act and the affidavit-in-reply filed on behalf of the respondent nos.1 to 3, it appears that the relief sought by the petitioners cannot be granted. It is the case of the petitioners that the petitioners have not received the compensation towards the acquisition of the land till date. The respondent nos.1 to 3 have deposited the compensation in the Court, as required by the provisions of Section 31 of the Land Acquisition

Act, 1894. In compliance with the provisions of Section 31 of the Land Acquisition Act, the amount of compensation is deposited by the State Government before the Civil Judge (Senior Division), Nagpur on 10.1.2011 in Land Acquisition Case No.18/2011 since the petitioners refused to accept the compensation. After the respondents have deposited the amount in the reference Court in view of the failure on the part of the petitioners to receive the same, the provisions of Section 24(2) of the Act cannot be invoked. Also, we find on a perusal of the original record and proceedings that the possession of the land is secured by the respondents on 9.2.2015. The possession receipt shows that the petitioners were not ready to handover the possession of the land to the respondents and hence, the respondents secured the possession of the land in the presence of the Panchas, the Deputy Collector and the Mandal Adhikari.

Since both the grounds on which the petitioners have challenged the award in view of the provisions of Section 24(2) of the Act of 2013 are baseless as we find that the possession of the land was secured by the respondents before the filing of the writ petition and the compensation was also deposited in the reference Court, in view of Section 31 of the Land Acquisition Act in the year 2011, the writ petition is dismissed with no order as to costs."

4. This order was challenged by the petitioners before the Hon'ble Supreme Court by filing Special Leave Petition No.15882/2016. By an order dated 11.07.2016 the Hon'ble Supreme Court permitted the petitioners to withdraw the special leave petition with liberty to approach this Court by way of Review Petition.

5. Thereafter, by order dated 02.09.2016 the review application filed by the petitioner was dismissed. It is further submitted that against the order dated 02.09.2016 in review application, the petitioners filed Special Leave Petition before the Hon'ble Supreme Court, which was withdrawn. Therefore, the order dated 03.05.2016 passed by this Court in Writ Petition No.1358/2016 attained finality. The observations made by this Court in the said order dated 03.05.2016 regarding taking over of possession on 09.02.2015 by the respondent have attained finality. As stated above, once the possession of the land has been taken over it is absolutely vests in the State Government.

6. In view of the above, the prayers in the present writ petition cannot be granted because all of them pertain to allegations regarding demolition of the building standing on the land in question after the possession was taken over. The prayer regarding initiation of criminal proceeding against the respondent for alleged high handedness can be taken care of, by the private complaint already filed by the petitioners before the Court of Judicial Magistrate First Class, Nagpur, bearing Criminal Application No.493/2016. As a result, no

grievance of the petitioners survives in this petition, and hence, it is dismissed.

JUDGE

JUDGE

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