

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

REVIEW APPLICATION NO.22 OF 2018 IN
WRIT PETITION NO.6914 OF 2004

Devendrasingh s/o Mulsingh Jaggi ... APPLICANT

VERSUS

The State of Maharashtra & others ... RESPONDENTS

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Shri D.P. Palodkar, Advocate for applicant
Shri M.M. Nerlikar, A.G.P. for respondent Nos.1 to 5
Shri Ajay S. Deshpande, Advocate for respondent Nos.7 & 8
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CORAM: T.V. NALAWADE AND
 SUNIL K. KOTWAL, JJ.

DATED : 23rd JANUARY, 2018.

ORAL ORDER :

1. The application is filed for review of the decision given by this court in Writ Petition No.6917/2004. The said petition was filed by CIDCO, Aurangabad to challenge the order made by Hon'ble Minister of the State, due to which the property of the present applicant was deleted from the process of acquisition. Both the sides are heard.

2. The acquisition proceedings were started before 1986 and completed in the year 1988. Compensation was also deposited by CIDCO, the acquiring body. To challenge the acquisition proceedings, writ petition was filed, but the said

proceeding came to be dismissed. Special Leave Petition was also dismissed. The applicant then tried for deletion of this property from the project. The applicant went up to the Hon'ble Minister and there he got the order of deletion. The order of Hon'ble Minister was challenged in Writ Petition No.6917/2004 by CIDCO in this Court and that petition is allowed.

3. The decision of this Court given on 6.10.2017 in aforesaid writ petition was challenged by filing Special Leave Petition. That Special Leave Petition came to be dismissed after giving hearing.

4. The learned counsel for the applicant submitted that, while deciding Writ Petition No.6917/2004, this Court observed that, provisions of Sections 16 and 48 of the Land Acquisition Act have no application for Section 126(2) of the Maharashtra Regional and Town Planning Act and so, that point needs to be considered again. He submitted that, the provisions of the new Act i.e. the Maharashtra Amendment Act, 2015 need to be considered and the decision given by Nagpur Bench of this Court on the basis of the decision given by the Apex Court in the past could not have been used in the present matter.

5. The submissions made show that, this Court allowed the Writ Petition due to the finding which was reached that the Hon'ble Minister had no jurisdiction and also for the reason of

public interest. The submissions made show that, compensation amount was deposited long back and it was not withdrawn by the applicant, and due to that circumstance, the other submissions regarding the new provisions made, amendment made, cannot be considered. This Court had referred all the provisions which were pointed out to this Court and which can be called as 'relevant provisions' while deciding the Writ Petition. Even if for a moment it is presumed that this Court committed error in giving some findings, it was open to the applicant to challenge the decision by filing appropriate proceedings in Supreme Court, and so, the contentions made by the applicant do not fall within the scope of review.

6. The learned counsel for the applicant then submitted that, the applicant is entitled to get higher compensation and at enhanced rate of interest as per the new scheme of CIDCO. These points cannot be considered in the present proceedings and the applicant will be entitled to take steps in that regard if he has any right under the scheme. With these observations, the application is rejected.

(SUNIL K. KOTWAL)
JUDGE

(T.V. NALAWADE)
JUDGE