

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.303 OF 2018
IN
WRIT PETITION NO.2425 OF 2016**

Pimpri Chinchwad New Town
Development Authority

.. Applicant

V/s.

State of Maharashtra and Ors.

.. Respondents

Mr.Vijay D. Patil for the applicant

Mr.P.G.Sawant, A.G.P.for the respondent nos.1 to 5

**CORAM: K.K. TATED &
M. S. KARNIK, JJ.**

DATED : AUGUST 16, 2018

P.C. :

1 Heard.

2 By this Civil Application, Applicant original Respondent no.6 seeks to recall the order dated 26.07.2017 passed by this court (Dr. Manjula Chellur, C.J. & N.M.Jamdar, J.) by which the Writ Petition was allowed holding that the acquisition proceedings in respect of the land in question have lapsed as per section 24(2) of the Right to Fair

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Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3 The learned counsel for the applicant submits that this court by order dated 22.09.2016 was pleased to issue notice to the respondents in Writ Petition. As per the said order, the learned A.G.P. Ms.Nisha Meha waives service of notice for respondent nos.1 to 5. However, this Hon'ble Court directed petitioner to take steps within two weeks for service of notice on respondent no.6 i.e. applicant in the present proceeding. He submits that thereafter, the matter was listed on 12.07.2017. In spite of the previous order dated 22.09.2016 wherein the petitioner was directed to take steps for service on Respondent no.6 within two weeks, petitioner has failed to take steps for service on applicant original respondent no.6 till then. On 12.07.2017, this court adjourned the matter by two weeks and made observation that nothing was placed on record about service on respondent no.6 present applicant. Till 26.07.2016 when the final order was passed by this court, it remained on the part of petitioner to effect the service by private notice. Hence, when the matter was called out before this court on 26.07.2017 no one remained present on behalf of applicant. He submits that by order dated 26.07.2017 this Hon'ble Court held that acquisition proceeding in respect of the Land in question have lapsed in view of section 24(2) of the said Act, 2013 without giving any opportunity to the applicant. He submits that the issue about interpretation of section 24(2) of the said Act 2013 is pending before the Apex Court. Therefore, in the interest of Justice, this Hon'ble Court be pleased to recall the order dated 26.07.2017 and restore the matter

on board for hearing on its own merits. He submits that if this Civil Application is not allowed, irreparable loss will be caused to them. He further submits that they have good chance of success in the present application.

4 The learned Senior Counsel for the original Petitioner does not seriously oppose the present Civil Application.

5 Considering the submissions made by the learned counsel for the Petitioner and the averments made in the Civil Application, we are satisfied that the order dated 26.07.2017 was passed by this court in Writ Petition No.2425 of 2016 without notice and hearing the Applicant. Hence, in the interest of Justice, same is required to be recalled.

Hence, following order is passed:

- a) Order dated 26.07.2017 passed by this court (Dr. Manjula Chellur, C.J. & N.M.Jamdar, J.) in Writ Petition No.2425 of 2016 is recalled.
- b) Writ Petition No.2425 of 2016 is restored on file for hearing on its own merits.
- c) Civil application stands disposed off accordingly.

(M. S. KARNIK, J.)

(K.K. TATED, J.)