

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

WRIT PETITION NO.13559 OF 2016

Shri Vidyadhar Bapu Darekar .. Petitioners

V/s.

The State of Maharashtra and Ors. .. Respondents

Mr.Omkar V. Amberkar i/b Mr.Swapnil Mohite for the Petitioner

Mrs.PN.Diwan, A.G.P for the Respondents

**CORAM: K.K. TATED &
B. P. COLABAWALLA, JJ.**

DATED : JUNE 4, 2018

PC. :

1 Heard the learned counsel for the parties.

2 The learned A.G.P for the State seeks some time to file Affidavit-in-Reply. It is to be noted that this court by order dated 7.12.2016, 3.10.2017 directed State to file their Affidavit-in-Reply. Considering these facts, as a last chance, 8 weeks time is granted to file Affidavit-in-Reply with copy to other side, failing which they have to pay cost of Rs.25,000/-.

3 Petitioner to serve unserved Respondent by private notice along

with entire proceeding either by registered post A/D and or by hand delivery and file affidavit of service to that effect within 8 weeks from today.

4 Petitioner to remove all office objections within 8 weeks from today, failing which the Writ Petition shall stand dismissed without further reference to the court.

5 The learned counsel for the Petitioner submits that the issue involved in the present Writ Petition is in respect of interpretation of section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. He submits that said issue has been pending before the Apex Court and in view of the order dated 21.02.2018 passed by the Apex Court in Special Leave Petition (Civil) No.8453/2017 (State of Haryana & Ors. Vs. M/s. G. D. Goenka Tourism Corporation Ltd. & Anr.), the matter is required to be adjourned.

6 Thereafter Special Leave to Appeal (C) Nos.9798-9799/2016 Indore Development Authority and Etc. & Anr. vs. Shyam Verma and Ors. Etc. & Ors. appeared before the Apex Court on 6.3.2018. At that time, the Apex Court passed order. Portion of the same reads thus:

“Taking all this into consideration, we are of the opinion that it would be appropriate if in the interim and pending a final decision on making a reference (if at all) to a larger Bench, the High Courts be requested not to deal with any cases relating to the interpretation of or concerning Section 24 of the Right to Fair Compensation and Transparency in

Land Acquisition, Rehabilitation and Resettlement Act, 2013. The Secretary General will urgently communicate this order to the Registrar General of every High Court so that our request is complied with.”

“On the same date, another two-Judge Bench in C.A.No.4835/2015 (State of Haryana & Ors. vs. Maharana Pratap Charitable Trust (Regd.) & Anr.) passed the following order:

“In view of the order of this Court dated 21.2.2018 in Special Leave Petition(C)..... CC 8453 of 2017 titled as State of Haryana and Others versus M/s.G.D. Goenka Tourism Corporation Limited and Another, that has been placed before this Court, we consider it appropriate that these matters be referred to the Hon'ble the Chief Justice to constitute an appropriate Bench and to see whether we can proceed with the hearing or not. Since a larger issue is involved, we refer the matters to the Hon'ble Chief Justice to be dealt with by an appropriate Bench, as His Lordship may consider appropriate.”

Keeping in view the aforesaid orders, it was thought appropriate by the Chief Justice of India to constitute a Constitution Bench to deal with all the issues in an apposite manner, and that is how these matters have been placed before us.

Learned counsel for the parties argued at some length and requested for framing questions of law. We think it appropriate to state, this Bench shall consider all the aspects including the correctness of the decision rendered in Pune Municipal Corporation (supra) and the other judgments following the said decision as well as the judgment rendered in Indore Development Authority (supra).

Be it noted, learned counsel for the parties would be at liberty to file their propositions of law when the matter is taken up for hearing.

We would have proceeded for hearing of these matters but as we are in the midst of hearing of another Constitution Bench matter, we think it appropriate to list these matters after conclusion of hearing of Item No.506 i.e. W.P (Crl.)No.76/2016. However, the matters shall remain in the cause-list.”

7 In view of these facts, the matter is adjourned sine die with liberty to both the parties to mention as soon as the issue is decided by the Hon'ble Supreme Court.

(B. P. COLABAWALLA, J.)

(K.K. TATED, J.)