

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

C.A.O. NO.1393/2017 IN M.C.A. ST. NO.19171/2017 IN W.P. NO. 6146/2015 (D)
 (ZP, WARDHA & ANOTHER VERSUS VIJAY KUMAR BHAYYALAL PARATE, NAGPUR & OTHERS)

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

Court's or Judge's orders

Shri P.D. Meghe, counsel for the applicants.
 Shri P.V. Vaidya, counsel for the NA-1.
 Shri B.M. Lonare, A.G.P. for the NA-2 to 4.

CORAM : SMT. VASANTI A NAIK AND
A.D. UPADHYE, JJ.

DATE : JANUARY 30, 2018.

Heard.

For the reasons stated in the application, the delay in filing the miscellaneous civil application is condoned. The civil application is allowed and disposed of.

M.C.A. ST. NO.19171/2017.

Heard.

Shri Meghe, the learned counsel for the applicant no.1-Zilla Parishad states that the original petitioner is a purchaser from the owner of the land, who had handed over the possession of the same to the applicants for the construction of the canal. It is stated that a canal was constructed on the land that was purchased by the original petitioner. It is stated that the applicant-Zilla Parishad, i.e. the acquiring body, was not made a party to the writ petition. It is submitted that if the land of the original petitioner is not acquired by passing an award under the Land Acquisition Act, 1894, the State Government and the Zilla Parishad would take appropriate steps for acquiring the land of the petitioner under the Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is stated that in the circumstances of

the case, since the canal is already constructed on the land of the original petitioner, the part of the order that directs the respondents in the writ petition to handover the possession of the land to the petitioner needs to be modified.

Shri Vaidya, the learned counsel for the non-applicant no.1 (original petitioner), states that if the land of the petitioner is acquired under the Act of 2013, the petitioner would have no objection.

In view of the aforesaid, we accept the statement made on behalf of the Zilla Parishad that the land of the petitioner would be acquired by the State Government and the Zilla Parishad under the Act of 2013 and the said statement would be binding on the Zilla Parishad.

Since the possession of the land of the petitioner is lost and a canal is constructed on the same, it would be necessary for the State Government and the Zilla Parishad to acquire the land of the petitioner under the Act of 2013. Since the canal is constructed on the land of the petitioner, the order directing the respondents to handover the possession of the land needs to be modified.

Hence, the sentence that “if the respondent nos.1 to 3 have secured the possession of 16R of land of the petitioner after the issuance of the Section 4 notification, the respondent nos.1 to 3 are directed to handover the possession of the same to the petitioner” should be substituted by the sentence. “If the respondent nos.1 to 3 and the Zilla Parishad have secured the possession of the land of the petitioner and have made the construction on the same, the respondents and the Zilla Parishad are directed to acquire the land of the petitioner under the Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and pay the compensation to the petitioner at the earliest.”

The miscellaneous civil application is allowed in the aforesaid terms and disposed of.

JUDGE

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