

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7375 OF 2018

Joti Sadu Patil .. Petitioner
Versus
The State of Maharashtra & Ors. .. Respondents

Mr. Prashant Bhavake for petitioner
Ms. Kavita Salunke, AGP for State respondent Nos. 1 to 4

CORAM : M.S.KARNIK, J.

DATE : 16th January 2019.

P.C.

Leave to amend. Amendments to be carried out forthwith.

2] The challenge in this petition, filed under Articles 226 and 227 of the Constitution of India, is to the order dated 31st May 2018 passed by the Additional Collector, Kolhapur whereby the request of the petitioner to convert the land user from Class II to Class I has been rejected.

3] This Court in Writ Petition No.11726 of 2006, filed by the

owner of the land for a declaration that the acquisition proceedings in respect of the acquired property as lapsed in terms of section 24(2) of the Land Acquisition Act has allowed the petition. It is however ordered that State is not obliged to return 0.56 ars of land in present petitioner's possession. The State was directed to pay compensation to the owner for 0.56 ares of land expeditiously and in any event within one year.

4] It is not in dispute that the petitioner is in possession of (0 hactares and 56 ars- for short "said land") land and the possession of the petitioner as a project affected person has been protected. The petitioner has been allotted the land as project affected person. It is further mentioned in the order that the compensation in respect of the acquired portion has to be paid expeditiously and in any case within a period of one year to the original owner. The application filed by the petitioner is, therefore, rejected on the ground that presently it is not possible to consider the request of the petitioner for converting the land from Class II to Class I.

5] It is not in dispute that the petitioner is in possession of the said land which was allotted to him as project affected person. Only the compensation has to be now paid to the original owner in respect of the said land. The State is obliged to pay compensation to the owners for 0.56 ares of land. Payment of compensation has nothing to do with considering the application of the petitioner for conversion. There, therefore, appears to be no logic in the reasoning that presently the application cannot be considered. However, as the petitioner was not heard before passing the impugned order, it would be appropriate if the Collector (Kolhapur) considers the issue afresh after hearing the petitioner.

6] In my opinion, therefore, the following order would meet the ends of justice.

(a) The impugned order dated 31st May 2018 is quashed and set aside;

(b) The Collector, Kolhapur to consider the application filed by the petitioner dated 10th March 2016 afresh on its own

merits and in accordance with law, after affording an opportunity of hearing to the petitioner; All contentions are kept open.

(c) The petitioner to remain present before the Collector Kolhapur on 21st January 2019 at 11.00 a.m. when the Collector can fix further schedule of hearing;

(d) The Collector to decide the application of the petitioner as expeditiously as possible and in any event within a period of twelve weeks from the date of appearance of petitioner before him.

(e) Petition is disposed of with the aforesaid directions.

(M.S.KARNIK, J.)