

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Amk

WRIT PETITION NO. 457 OF 2003

Mary John Farro & Ors.

.. Petitioners

Vs.

State of Maharashtra & Ors.

.. Respondents

Mr. Kurush J. Presswalla a/w. Mr. Rakesh Mandavkar and Ms. Diksha Shetty i/b Y. P. Dandiwala and Mr. Bhavesh V. Panjuani of Mulla & Mulla & Craigie Blunt & Caroe & Caroe for the Petitioners.

Mr. Y. D. Patil, AGP for Respondent No.1.

Mr. Clive D'souza for Respondent No.7.

Mr. Vinod Mahadik for Respondent No.3.

CORAM : PRADEEP NANDRAJOG, C.J.

DATE : 26th JULY, 2019.

P.C. :

1. Heard learned Counsel for the parties.
2. With the little application of mind the learned Judge of the City Civil Court, Mumbai could have disposed of Long Cause Suit No. 2784 of 1978 by passing a practical order and not the impugned order dated 28.11.2000.
3. The Petitioners had filed the suit against the State of Maharashtra and the Bombay Municipal Corporation questioning the acquisition of their land for the benefit of Auxilium School Authorities. As per the terms of the acquisition, the Auxilium School Authorities were to recompense the Plaintiffs by providing an alternate accommodation.
4. Written arguments filed before the learned Judge by the Bombay

Municipal Corporation categorically records that since the beneficiaries had not come forward to comply with their obligations for the purpose of their possession, it was decided to withdraw their possession and for which the Municipal Corporation has already granted the requisite sanction.

5. Notwithstanding the said stand taken the learned Judge by the impugned order dated 28.11.2000 has directed that the Salision Sisters Society should be added as party because the purpose of the acquisition was for its benefit.

6. Suffice it to state that once the competent authority choses to withdraw the acquisition proceeding and issues a notification under Section 48 of the Land Acquisition Act, 1894 that would be the end of the matter.

7. Had the learned Judge taken note of the stand taken by the Bombay Municipal Corporation the suit could have been disposed of declaring that in view of stand taken by the Bombay Municipal Corporation nothing survives for adjudication.

8. Disposing off the Petition quashing the impugned order dated 28.11.2000 it is expected that the learned Judge, City Civil Court at Bombay would pass formal order disposing of the suit.

[CHIEF JUSTICE]