

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10286 OF 2019

Hanumant Murlidar Gavade

...Petitioner

vs.

Mumbai Agricultural Produce Market
Committee, Mumbai and Ors.

...Respondents

Mr. S.S. Shah, for the Petitioner

Ms. Priyanka Bhadrashete i/b. Mr. N.N. Bhadrashete, for
Respondent No. 1.

Mrs. K.r. Kulkarni, AGP for the State.

**CORAM : INDRAJIT MAHANTY &
 N.B. SURYAWANSHI, JJ.**

DATE : SEPTEMBER 30, 2019

P.C.:

. Heard learned counsel for the Petitioner as well as
learned counsel for Respondent No. 1-A.P.M.C.

2. The present Petition has come to be filed seeking
direction to direct Respondent Nos. 1 and 2 to allow the
Petitioner to participate as eligible claimant along with 4
other claimants in tender process for allotment of Gala No.
F 158 in Fruit Complex of APMC Market at Vashi. It appears
that Hon'ble Supreme Court in Civil Appeal No. 5350 of

2019 passed direction on 10th July, 2019 to the following fact:

“53. Considering the fact that APMC itself has fixed the market value of large Gala No. F 158 at Rs. 55,00,000/- in the year 2013-14, we deem it appropriate to fix the upset value at Rs. 55,00,000/-. the four eligible claimants viz. (I) M/s. Hande Wavare and Co., (ii) Mr. Ganpat Sabaji Shidne; (iii) M/s. Bhalchandra Chintaman Lele (Mr. Kedar Keshav Lele); and (iv) Mr. Ashok Dhondiba Punde shall quote their offers in a sealed cover and accordingly, the large Gala No. F 158 be allotted to the one who is quoting the highest price.”

3. Learned counsel for the Petitioner submits that the present Petitioner is similarly stands as other 4 parties who had been permitted by the Hon’ble Apex Court to participate in the tender. However, he has also drawn our attention to the fact that while he sought for allotment of the same Gala No. F 158, his prayer for allotment thereof was cancelled and the challenge for cancellation of

allotment, before this Court, came to be dismissed on the ground that the Petitioner was not eligible. Further the Petitioner approached the Hon'ble Supreme Court in Civil Appeals Nos. 10701 and 10702 of 2011 which also came to be dismissed by the order and judgment dated 7th December, 2011. It is an admitted position by the learned counsel for the Petitioner that after dismissal of the Petitioner's Civil Appeal by the Hon'ble Supreme Court, his Gala No. F 158 was taken over by the Respondent No. 1-A.P.M.C. and the Petitioner was granted a smaller Gala.

4. Learned counsel for Respondent No. 1 submits that this prayer of the Petitioner cannot be entertained by the High Court since he had already sought to challenge the cancellation of allotment in his favour before the Hon'ble Supreme Court and having been unsuccessful here, the Petitioner approached the Hon'ble Supreme Court where once again, the prayer of the Petitioner was rejected. In so far as Civil Appeal NO. 5350 of 2019 has concerned, it was disposed of by the Hon'ble Supreme Court by the judgment

and order dated 10th July, 2019.

5. Learned counsel for Respondent No. 1 states that Respondent No. 1- A.P.M.C. is bound to carry out the allotment contained in paragraph 53 of the order and since the Petitioner was unsuccessful before the Hon'ble Supreme Court, in his own Civil Appeal, any direction passed in the Writ Petition would overreaching the jurisdiction of this Court.

6. Having heard the learned counsel for the parties and perused the earlier direction passed by the Hon'ble Supreme Court in the cases referred above, we are of the considered opinion that this Court has no jurisdiction to consider or grant relief to the Petitioner in view of the specific direction passed by the Hon'ble Supreme Court.

7. Petition is disposed of as such.

(N.B. SURYAWANSHI, J.) (INDRAJIT MAHANTY, J.)