

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH, NAGPUR.

**WRIT PETITION NO.7289/2017**

MOTIRAM KASHIRAM DESHMUKH (**DEAD**) THROUGH LRs SMT. MEERA K. LUTE AND OTHERS  
VS.  
CITY OF NAGPUR CORPORATION, NAGPUR AND ANOTHER.

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Office notes Office Memoranda of  
Coram, appearances, Court's orders  
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri S.D.Chande, Advocate for petitioners.  
Shri A.M.Quazi, Advocate for respondent no.1.  
Shri S.Bissa, Assistant Government Pleader for respondent no.2.

**CORAM : A.S.CHANDURKAR, J.**

**DATED : NOVEMBER 19, 2019.**

The challenge raised in this writ petition is to the interlocutory orders passed by the trial Court rejecting the application preferred by the plaintiffs-petitioners herein for grant of temporary injunction which order has been confirmed by the first appellate Court.

It is the case of the petitioners that land bearing Survey Nos. 3/3 and 3/4 was purchased by the predecessor of the petitioners on 01.06.1953 and since then the petitioners were in possession of the said land. The respondents on the basis of the mutation entries taken without notice to the plaintiffs sought to disturb the possession of the plaintiffs and hence suit was filed seeking declaration that the respondents were not entitled to take forcible possession of the suit property. The trial Court after considering the material on record, prima facie, held that there was no document on record to support the stand as taken was filed by the plaintiffs. The appellate Court while confirming that

order has referred to the acquisition proceedings and the award passed on 11.09.1962. It has been observed that the mutation entries have been taken thereafter. The appeal was accordingly dismissed.

Shri S.D.Chande, learned counsel for the petitioners submitted that since the land was acquired by passing ex-parte award the petitioners were not aware of the same. The respondents could not claim entitlement to the land in question on the basis of such ex-parte award. Since the petitioners were in possession, they were entitled for grant of temporary injunction.

On the other hand, Shri A.M.Quazi, learned counsel for the respondent no.1 supported the impugned order. According to him, after acquiring land on 11.09.1962 the plaintiffs had no right to seek any relief. The injunction was rightly refused.

Heard the learned counsel and perused the documents on record. It is seen that the land in question was the subject of acquisition proceedings and by award dated 11.09.1962 the same was acquired by the respondents. According to the plaintiffs, it was an ex-parte award. Be that as it may, as of today that award has not been challenged. The mutation entries have been shown to have been taken thereafter. Both the Courts have taken into consideration these aspects while refusing to grant any interim relief to the plaintiffs. As it is found that the suit has been filed in the year 2013, the proceedings in the suit can be directed to be expedited.

Accordingly by observing that the trial Court shall not be influenced by any observations made in the impugned orders, the proceedings in R.C.S.No. 1253/2013 are expedited. The suit

shall be decided on its own merits and in accordance with law. If any fresh notice is issued by the respondents, it is open for the petitioners to take appropriate steps in that regard. The writ petition is thus dismissed. No costs.

**JUDGE**

Andurkar.