

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7722 OF 2019

Sou. Subhadraraje Pratapsingh Naik Nimbalkar ..Petitioner
Versus
The State of Maharashtra & Ors. ..Respondents

Mr. Parag M. Tilak a/w Mr. Aditya P. Shirke & Mr. Shon D. Gadgil,
Advocates for the Petitioner.

Ms. Nisha Mehra, AGP for Respondent Nos.1 to 7.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 24th JANUARY, 2020

P.C.

1] In spite of opportunities granted to file a counter affidavit, last being granted on 10th December 2019, none has been filed. Further time sought to file a counter affidavit is denied.

2] Thus, we are constrained to dispose of the Writ Petition treating the averments made therein as correct.

3] At the outset, we record that the direction issued by the Supreme Court that no Court would decide cases where dispute relates to interpretation of Sub Section (2) of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 are not attracted to the instant case for the

reason, it is the case of the Petitioner that pursuant to the Award dated 01.12.2000 neither possession of the subject lands has been taken over nor compensation tendered to the Petitioner nor the same deposited in the Court.

4] The issue whether the word 'or' in Sub Section (2) of Section 24 should be treated as 'and' pending before the Constitution Bench of the Supreme Court where the judgment is reserved to be pronounced would not affect the instant case for the reason in the instant case even if we are to read the word 'or' as 'and' both requirements have to be satisfied; we find that on account of the pleadings in the Writ Petition to which there is a non-traverse both are satisfied. Neither possession of the acquired land has been taken over nor compensation tendered or deposited in the Court.

5] Thus, the Writ Petition is allowed granting relief prayed for in clauses (a) and (b) of paragraph 12 of the Writ Petition.

6] No costs.

SMT. BHARATI DANGRE, J

CHIEF JUSTICE