

Pradnya Bhogale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 523 OF 2018
IN
REVIEW PETITION ST. NO. 3383 OF 2018
IN
WRIT PETITION NO. 13512 OF 2016**

Rajesh Uttam Narawade and Anr. ..Applicants
vs.
Sopan Maruti Umap and Ors. ..Respondents

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Mr. Y.B. Lengare for Applicants.
Mr. Irshad M. Malik for Respondent Nos.1 to 6.
Ms. Shruti Vyas, 'B' Panel Counsel for State.

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**CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.**

DATE : 15 JANUARY 2020

P.C.:-

Heard learned counsel for the parties.

2. This Application is taken out for interim relief in a Review Petition filed for review of the order dated 3 October 2017 passed by this Court (Coram Dr. Manjula Chellur, C.J. and Nitin Jamdar, J.). By this order the Division Bench disposed of various Petitions which were filed seeking relief under Section 24(2) of the Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013. The Division Bench noted the Scheme under Section 24(2) of the Act and the decisions of the Supreme Court holding field as of that date and held that the acquisition proceedings impugned in the Petitions had lapsed under Section 24(2) of the Act. The Division Bench noted that as per the law laid down and holding field on the relevant date, if the compensation is not paid or possession is not taken on the relevant date, then acquisition proceedings would lapse. While declaring that the proceedings have lapsed, the Division Bench specifically noted that the aspect of possession was a disputed question and opined that it was not possible for the Court to decide this factual aspect of possession in the Petitions.

3. Thereafter, a review is filed. A Civil Application for seeking interim order regarding possession was taken out in this Review Petition. The Division Bench of this Court (Coram R.M. Savant and Sarang V. Kotwal, JJ.) by order dated 2 May 2018 deferred the hearing of the Review Petition pending the decision of the Constitution Bench. Thereafter by order dated 10 September 2018 the Apex Court granted liberty to the Applicants to renew the prayer for interim directions.

4. We have heard learned counsel for the parties.

5. The original Petitioners assert that they have continued in physical possession, while it is the contention of the

Applicants that they were put in possession. This aspect which is a disputed question of fact was not gone into when the Writ Petition was disposed of and declaration of lapsing was on the ground of non-payment of compensation. It is not possible for us to decide this disputed question of law. We are of the opinion that the appropriate remedy will be a suit for injunction based on possession. As far as the legal aspects of the case are concerned they would be considered in the appropriate proceedings.

6. In view of this position we dispose of the Application by directing that the original Petitioners and the Review Petitioners to maintain status quo as on date and not to take any preceptive action. This order of status quo would continue for a period of 12 weeks. It is open to the parties to move the Civil Court for appropriate orders of injunction where rival contentions as to who is in actual physical possession would be considered by the Civil Court based on evidence.

7. Civil Application is disposed of. The Review Petition is deferred to 18 June 2020.

8. All office objections in Review Petition to be removed within a period of four weeks.

(M.S.KARNIK, J.)

(NITIN JAMDAR, J.)