

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14582 OF 2017

Vilas S/o. Shivdas Padwal

... Petitioner

VERSUS

The State of Maharashtra and others

... Respondents

**WITH
FIRST APPEAL NO. 488 OF 2019**

Maharashtra Industrial Development
Corporation through Divisional Officer
MIDC, Office Latur, Tq. & Dist. Latur

.. Appellant

VERSUS

Vilas Shivdas Padwal and others

.. Respondents

**WITH
CA/6910/2020 IN FA/488/2019
WITH
CA/3585/2020 IN FA/488/2019**

...

Mr. V.D. Salunke, Advocate for petitioner (WP/14582/2017)
Mr. S.R. Yadav, AGP for respondent nos. 1 to 3 (WP/14582/2017)
Mr. D.S. Bagul, Advocate for respondent no. 4 (WP/14582/2017)
Mr. S.S. Dande, Advocate for appellant (FA/488/2019)
Mr. P.P. Mandlik, Advocate for respondent no. 8 (in FA/488/2019)

...

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 15TH NOVEMBER 2021

PC :

1. The learned Advocates for the respective sides canvassed Civil Application no. 6910 of 2020 and Civil Application no. 3585 of 2020. These two civil applications have been filed for seeking

intervention in the first appeal by third party and for withdrawal of amount by one of the original claimants represented by Advocate Mr. Salunke, respectively.

2. As the hearing in the matter progressed over a period of almost 1-1/2 hours, we noticed that writ petition no. 14582 of 2017, which has been assigned to this Court by the order of the Learned Seniormost Judge of this Bench, dated 12-08-2021, a limb of the litigation involving the parties is pending before the Sub Divisional Officer and Land Acquisition Officer, Osmanabad, which is respondent no. 3 in the said writ petition.

3. After considering the submissions of the learned counsel, we are of the view that said pending proceeding needs to be concluded so as to enable us to deal with the issue raised before us in first appeal no. 488 of 2019. We, therefore, heard learned Advocates for the respective sides in the writ petition.

4. Appearance of Shri Sangle on behalf of respondent no. 4 is dispensed with by consent since Shri Bagul, learned Advocate has caused appearance on behalf of the said respondent.

5. Prayer clause (B) put forth in the writ petition reads thus:

“(B) To issue writ of mandamus or any other appropriate writ or direction in the like nature, the respondent nos. 1 and 2 may kindly be directed to transfer file No.2006/LNQ/CR-3

pending before the Sub-Divisional Officer and Land Acquisition Officer, Osmanabad i.e. the respondent no.3 to any other S.D.O./Dy. Collector/Land Acquisition Officer in Osmanabad District or outside the District.”

6. The learned counsel Shri Salunke representing the petitioner submits that this petition was filed with the above prayer clause, as the petitioner had developed an apprehension that the matter needs to be transferred from the file of respondent no. 3 (as he then was at the time of the filing of the petition). He now submits that he would have to raise an issue before said authority that the enquiry contemplated may not be permissible within the framework of law.

7. The learned AGP and the learned counsel for the respondent no. 4, submit that the authority from whom the matter was sought to be transferred, has already moved out of station and a new officer has taken over.

8. In view of the above, this petition is rendered infructuous and stands disposed off, with the following directions:-

a) We expect the third respondent to decide the pending proceeding as expeditiously as possible and in any case on or before 28th February, 2021.

b) No request for extension of time should be made and all the parties shall fully co-operate, failing which the said authority would be at liberty to proceed with the matter in accordance with law.

c) Needless to state, all contentions of the litigating parties are kept open, as well as the contention of the petitioner that the said proceedings would not be maintainable and no such enquiry is contemplated in law.

9. It is made clear that first appeal no. 488 of 2019 along with civil application no. 6910 of 2020 and civil application no. 3585 of 2020 would be considered after the decision of respondent no. 3, as directed above.

10. The Registry of this Court shall ensure that the amount deposited by the MIDC in the first appeal, if not already invested, shall be invested in fixed deposit receipt with a nationalized bank at Aurangabad, initially for a period of one year and renewable thereafter subject to further orders in first appeal no. 488 of 2019, civil application no. 6910 of 2020 and civil application no. 3585 of 2020.

[S.G. MEHARE, J.]

[RAVINDRA V. GHUGE, J.]

arp/