

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION NO. 8 OF 2022

IN

WRIT PETITION NO. 7225 OF 2018

Shri Mahavir @ Pawan S/o Shashikant Bhalgat

..VS..

State of Maharashtra & others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Nachiket G. Moharir, Advocate for petitioner.

Mr. K.L. Dharmadhikari, A.G.P for respondent Nos.1 to 3.

CORAM : SUNIL B. SHUKRE AND
G.A. SANAP, JJ.

DATED : 15.09.2022

Heard.

2. This Court by the order passed on 23.10.2020 directed the respondents to take immediate steps to issue notification under Section 48 of the Land Acquisition Act within a period of two weeks from the date of the order thereby withdrawing the land in question from acquisition. This Court has noted the fact that merely because the award has been passed, the land cannot be taken to have vested in the State Government, in view of the provision in Section 16 of the Land Acquisition Act, with the possession of the land having been not admittedly taken by the State Government. There is, however a difficulty in implementing these direction. The difficulty is of the award of compensation which is already passed in this case. If the notification under

Section 48 of the Land Acquisition Act, 1894 is to be issued, the Land Acquisition Officer would also be required to first cancel the award already passed by him and if he does so, it would amount to granting the final prayer made in this petition. The main prayer made in the petition is about quashing and setting aside the award dated 05.07.2011 passed by Land Acquisition Officer in Land Acquisition Case No. 8/LQN/2006-07. This Court, did not issue any direction to the Land Acquisition Officer to also cancel the Award already passed by him. There is also no direction issued by this Court to Land Acquisition Officer to pass Award determining damages suffered by the petitioner as is required under Section 48 of the Land Acquisition Act.

3. Thus, the order dated 23.10.2020 is of the nature, which cannot be implemented by the Land Acquisition Officer without grant of final relief in this petition and this being so, the order dated 23.10.2020 deserves to be recalled and it is recalled accordingly.

4. The application is disposed of in the above terms.

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Let the petition be heard finally on the next date.

Stand over to **29.09.2022**.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)