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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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INTERIM APPLICATION NO.780 OF 2023
IN
WRIT PETITION NO.12730 OF 2017

Vinet Enterprises,
through Partner – Mahesh V. Shirode & Anr. ...Applicants

IN THE MATTER BETWEEN :

Madhuri U. Shitole & Ors. ...Petitioners

V/s.

State of Maharashtra & Ors. ...Respondents

WITH
INTERIM APPLICATION NO.17534 OF 2022
IN
WRIT PETITION NO.12730 OF 2017

The General Manager, Maharashtra
State Road Transport ...Applicant

IN THE MATTER BETWEEN :

Madhuri U. Shitole & Ors. ...Petitioners

V/s.

State of Maharashtra & Ors. ...Respondents

Mr.A.V. Anturkar, Senior Advocate i/b Mr.S.B. Deshmukh for the
Applicants.

Mr.Shrishail Sakhare for the Petitioners.

Mr.P.G. Lad for the Respondent No.4.

Mr.V.S. Gokhale, “B” Panel Counsel for the Respondent Nos.1 and 2.

CORAM : R.D. DHANUKA &
GAURI GODSE, JJ.
DATE : 9TH MARCH, 2023.

P.C. :-

1. By this Interim Application, the Applicants, who are not the parties to the Petition, are seeking impleadment in the Writ Petition and also seeking clarification that the interim order passed on 18 December, 2017 will not prevent the Applicants from carrying on construction on the property, which is the subject matter of the Sale Deed executed in favour of the Applicants nor the order dated 21 December, 2022 or the order which has been passed by this Court on 1 December, 2022 will preclude the Applicants from carrying out construction on the property in respect of which the commencement certificate dated 25 July, 2022 has been obtained by the Applicants from Pune Municipal Corporation.

2. The original Petitioners filed the Writ Petition bearing Writ Petition No.12370 of 2017 *inter-alia* praying for a declaration that the impugned award dated 20 March, 2022 in land bearing Survey No.6/2B admeasuring OH-63R out of 1H 5.75R of Village Sanghvi, Taluka Haveli, District Pune has been lapsed in view of the provisions

of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "the Resettlement Act, 2013").

3. In the said Writ Petition, this Court passed an order on 19 December, 2017, adjourning the matter to 15 January, 2018 and directing that till then both the parties shall maintain *status-quo* as of the date of the said order regarding the subject land. The said interim order continues till the date.

4. The Maharashtra State Road Transport Corporation (MSRTC) filed Interim Application No.17534 of 2022 in the Writ Petition through the General Manager, who is not a party to the Petition (Respondent No.3) *inter-alia* praying for an order and direction to remove the tins sheet erected on the boundaries of the writ premises.

5. This Court in the said Interim Application passed orders on 21 November, 2022, 1 December, 2022 and 16 December, 2022. This Court directed the Registrar of this Court to depute an officer of this Court to act as the Court Commissioner and submit a report whether any construction is being carried out by any of the parties to the Petition or any third party and also the status of such construction.

6. In pursuance of the said order, the Court Commissioner

submitted the report dated 28 November, 202 along with photographs and pointed out that the construction work was going on. This Court observed that the report submitted by the learned Court Commissioner, where it is reported that on enquiry with Shri Dyaneshwar Sartape, Site Supervisor, Shri Mahesh Vasantrao Shirode, who is the owner of the site is carrying out the construction in the name of Vinet Enterprises. This Court accordingly directed the Applicant to implead Vinet Enterprises as a party Respondent to the Interim Application.

7. Mr.Anturkar, learned Senior Counsel for the Applicant in Interim Application No.780 of 2022 submitted that this Applicant is not carrying out any construction work on the plot which was the subject matter of the writ property. He submitted that his client is independently claiming the rights in the property on which he is carrying out construction, from the Petitioners under a document separately entered into between the parties. He submitted that though according to his client the order of *status-quo* passed by this Court does not prevent his client from carrying out any construction in the writ property but as and by way abundant precaution, the Applicant has filed the Interim Application No.780 of 2023 for clarification that the said order of *status-quo* would not apply to the Applicant.

8. Mr.Lad, learned counsel for the Respondent No.3 and for the Applicant in Interim Application No.17534 of 2022 vehemently urged that the Applicant in Interim Application No.780 of 2023 is claiming through the original Petitioners and is carrying on construction on the writ property, which is the subject matter of the award passed by the learned Special Land Acquisition Officer in favour of his client.

9. Mr.Sakhare, learned counsel for the original Petitioners submitted that his clients has not sold any part of the land which is the subject matter of the award in favour of the Applicants.

10. It is made clear that we do not propose to render any findings on the rival contentions raised by the parties *inter-se* viz. (i) Whether the Applicants in Interim Application No.780 of 2023 is carrying out any construction on the writ property, which is the subject matter of the award of any other property and (ii) Whether the Applicants in Interim Application No.780 of 2023 claims any independent rights in respect of the property of which they are carrying on construction or not.

11. A perusal of the order of *status-quo* passed by this Court, which is continued from time to time clearly indicates that the said *status-quo* order is passed against the parties to the proceedings in respect of the subject land. It is not the case of Mr.Lad, learned

counsel for the Respondent No.3 that the order of status-quo was passed also in respect of the other plots of land, which were not the subject matter of the award.

12. In view of the fact that the order passed by this Court granting status-quo order was in respect of the parties to the proceedings and the subject matter of the land i.e. the lands which were acquired under the impugned award and not under any other order, the fact that the Applicants in Interim Application No.780 of 2023 being not parties to the Petition at that point of time, the said order of *status-quo* clearly applies only to the parties to the Petition and to the subject matter of the land and which is the subject matter of the award.

13. In view of this clarification, in our view, nothing survives in Interim Application No.780 of 2023.

14. Whether the learned Court Commissioner's report is acceptable to the parties or not, further course of action can be decided by the parties and on such Court Commissioner's report, the parties to decide whether to adopt appropriate proceedings for further orders or not.

15. In view of these directions, we do not propose to pass any order in Interim Application No.17534 of 2022 and the same is accordingly disposed off. Interim Application No.780 of 2023 is also

disposed off. At this stage, Mr.Lad, learned counsel for the Applicant in Interim Application No.17534 of 2022 states that this Court shall pass an order of *status-quo* regarding the plot in question as on date, which is vehemently opposed by Mr.Anturkar, learned Senior Advocate for the Applicant in Interim Application No.780 of 2023. The status-quo order already passed by this Court on 19th December, 2017 in Writ Petition against the parties to the Writ Petition in respect of the subject matter of the award is continued. We do not propose to pass any fresh order of *status-quo* which would create more complications.

(GAURI GODSE, J.)

(R.D. DHANUKA, J.)