

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 3462 OF 2019

Mukteshwar Vividh Karyakari Seva

...Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. G.S. Godbolde, Sr. Advocate i/b. Mr. Kaustubh Thipsay for
Petitioner.

Mr. Himanshu Takke, AGP for Respondent Nos.1 to 3.

CORAM : K. R. SHRIRAM &

FIRDOSH P. POONIWALLA, JJ.

DATE : 22nd JUNE 2023.

P. C.:-

1. Petitioner has averred in the Petition that the order dated 28th November 2018 passed by Collector, Mumbai, Suburban i.e. Respondent No.2 ought to be quashed and set aside in view of the fact that the order itself has been passed without even giving a notice to Petitioner.

2. It is averred in the Petition that for the first time the impugned order was handed over to Petitioner on 3rd December 2018 and one of the grounds raised is Petitioner should have been given an opportunity of being heard and submit appropriate objections and if

anybody wishes to take possession of any land, due process of law has to be followed. There is no affidavit-in-reply.

3. State and the Corporation appeared for the first time on 14th January 2019. The matter got listed on various dates and finally on 9th June 2022, more than a year ago and much after Covid-19 Pandemic ceased, at the request of AGP and Counsel for the Corporation, three weeks time was granted as last chance to file their respective replies. Corporation is not even represented today. Despite last chance being given, no reply filed.

4. We are therefore, not inclined to consider Mr. Takke's request for further time. We shall proceed on the basis that none of the averments in the Petition are controverted.

5. Mr. Takke, to a specific query posed by the Court, in all fairness stated that Petitioner should have been given notice before any order was passed.

6. We have perused the impugned order and there is nothing to indicate even from the impugned order that what Petitioner has stated in the Petition is not correct.

7. In the circumstances, without making any observations on the merits of the case, we hereby quash and set aside order dated 28th November 2018 and remand the matter to Respondent No.2.

8. Mr. Godbole states that he is not pressing for prayer Clause-(c) at this point of time. At the same time Mr. Godbole states that if the Corporation or the State want to acquire the land, it may, by following the provisions of the Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013.

9. Since, we have quashed and set aside the order dated 20th November, 2018, the consequential notice dated 1st December 2018 also cannot survive. The same is also quashed and set aside.

10. Petition disposed.

(FIRDOSH P. POONIWALLA., J.)

(K. R. SHRIRAM, J.)