



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 608 OF 2024
IN
WRIT PETITION NO. 2724 OF 2024

1. Govind s/o Namdev More,
Age: 56 Years, Occu.: Agri,
2. Bahirvnmath s/o Govindrao More, ... **Petitioners**
Age: 22 years, Occu: Agri,
R/o:- Sonkhed,
Tal. Loha, Dist- Nanded

VERSUS

1. Mr. Manukumar Shrivastav,
Principal Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.
2. Shri. Madhukar s/o Ganpatrao Rajardad, ... **Respondents**
Age: Major; Occu: Divisional Commissioner,
Chhatrapati Sambajinagar,
Tq. & Dist: Chhatrapati Sambajinagar.
3. Shri. Abhijit s/o Rajendra Raut,
Age: Major; Occu: District Collector,
Nanded Tq. & Dist: Nanded.
4. Smt. Aruna Sangewar,
Age: Major; Occu: SDM Kandhar,
Tq. Kandhar, Dist: Nanded.

Mr. Vaibhav Dhage, Advocate for the Petitioner
Mr. S. K. Tambe, AGP for Respondents State
Mr. R. B. Bhosale, Standing Counsel for Respondent/Competent
Authority

CORAM : RAVINDRA V. GHUGE, &
Y. G. KHOBRADE, JJ.
RESERVED ON : 09.07.2024
PRONOUNCED ON : 18.07.2024

JUDGMENT (Per: Y. G. Khobragade, J.)

1. Heard at length Mr. Vaibhav Dhage, the learned Counsel for Petitioner, Mr. S. K. Tambe, the learned AGP for Respondents/State and Mr. R. B. Bhosale, learned Standing Counsel for Respondent/Competent Authority.

2. By the present Contempt Petition under Section 12 of The Contempt of Courts Act, 1971, the Petitioners have put forth prayer clause B as under:

“B. Hold and declare that, the Respondents are guilty of committing of contempt of this Hon’ble Court by flouting/ disobeying the order passed by this Hon’ble court dated 30.01.2024 and 05.02.2024 in Writ Petition No. 2724 of 2022 and punish them as per the law and for that purpose issue necessary orders.”

3. Needless to say that the Petitioner have filed Writ Petition No. 2724 of 2022 and put forth Prayer clauses (B) and (C) as under:

"B) Issue writ of mandamus, or any other writ, order or direction in the nature writ of mandamus, direct the res. No. 3 to pay the compensation by initiate acquisition proceeding and pass award in respect of remaining 4 R land

of the petitioner from G. No. 48 of village Sonkhed Tq. Loha along with interest and for that purpose issue necessary orders.

- C) Pending hearing and final disposal of this writ petition, direct the respondent authorities to initiate the acquisition proceedings of the remaining 4 r land of the petitioners from G. No. 48 of village Sonkhed Tq. Loha and for that purpose issue necessary orders."

4. After hearing parties, on 30.01.2024, this Court had passed the following order in W.P. 2722 of 2024:

"1. We have heard the submissions of the learned Advocates for the respective sides and the learned AGP

2. Leave to add the Divisional Commissioner, Aurangabad as Respondent No.5. Addition be carried forthwith.

3. The learned Government Pleader appears on behalf of the added Respondent.

4. Following are the undisputed aspects :-

(a) The complainant Sadashiv Champatrao More is not seeking any apportionment of the quantum of compensation towards land acquisition and there is no such dispute before the competent authority under Section 3H(4) of the National Highways Act.

(b) The only allegation of Sadashiv Champatrao More is that the land of the Petitioners in Gat No.48, admeasuring additional 4 R, was purportedly acquired earlier for a canal and is now again being shown as having been acquired for NH-361. Certain reports have been delivered to the Additional District Collector and the said reports have been transmitted to the Divisional Commissioner. The Divisional

Commissioner is dealing with the only issue as to whether the land of the Petitioners in Gat No.48 admeasuring additional 4 R was earlier acquired for the canal. If the Divisional Commissioner concludes in the negative, the acquisition of the Petitioners' land for NH-361 will have to result in grant of compensation to the Petitioners.

5. *In view of the above, this Petition is disposed off with the following directions :-*

(a) Since Sadashiv Champatrao More is before the Divisional Commissioner, the said authority would issue notice to the litigating parties, directing them to appear before him on 15.02.2024 at 11.00 a.m.

(b) After the hearing is concluded, the Divisional Commissioner would pass an order on or before 15.03.2024.

(c) The decision of the Divisional Commissioner would be communicated to the parties as well as to Respondent No.3, competent authority.

(d) If the conclusion of the Divisional Commissioner indicates that the land was never acquired earlier, Respondent No.3 would proceed to disburse the compensation amount to the undisputed claimants before him.

(e) Needless to state, if the interest component is payable, the Petitioners would be at liberty to receive the same under the provisions of the National Highways Act, if there is no legal impediment."

5. On 05.02.2024 on motion for speaking to minutes, this Court modified order dated 30-01-2024 which reads as under:

" This is a motion for speaking to the minutes of the order dated 30-01-2024. The learned Advocates for th petitioners, as well as

on behalf of the Respondents, submits that the directions at Clause No. 5(e) of the said order should read as under:

“Needless to state, if the interest component is payable, the Petitioners would be at liberty to receive the same under the provisions of the National Highways Act, if there is no legal impediment”.

2. In view of the above, this motion is disposed off. The Order dated 30-01-2024 be corrected accordingly, and the corrected order be uploaded.”

6. During the course of argument, learned standing counsel for the Competent Authority tendered a copy of Regular Civil Suit No. 254 of 2020 (Govind Namdevrao More Vs. Sadashiv Champatrao More) and a copy of Regular Civil Suit No. 4 of 2016 (Bhavraonath Govindrao More Vs. Ganpati Mokinda More and others). Prima facie it appears that the present Petitioners have instituted Regular Civil Suit No. 254 of 2020 for partition and separate possession in respect of agricultural field Gut No. 339 admeasuring 2 H 11 R and Gut No. 453 admeasuring 0 H 22 R. Bhaivravnath Govindrao More (son of present petitioner) filed a Regular Civil Suit No. 4 of 2016 for decree of permanent injunction on the ground of ownership and shares in the undivided Hindu Family Property.

7. No doubt, on 30.01.2024 this Court issued direction in Writ Petition No. 2724 of 2022 that the Divisional Commissioner, would

issue notice to the litigating parties, directing them to appear before him on 15.02.2024 at 11.00 a.m. and after concluding the hearing the said authority would pass an order on or before 15.03.2024. Further, the Divisional Commissioner was directed to communicate to the parties as well as to Respondent No. 3, competent authority and if the conclusion of the Divisional Commissioner indicates that the land was never acquired earlier, Respondent No. 3 would proceed to disburse the compensation amount to the undisputed claimants before him. On 05.02.2024, on a motion, order dated 30.01.2024 was modified and paragraph No. 5 (e) added as under:

"5(e) Needless to state, if the interest component is payable, the Petitioners would be at liberty to receive the same under the provisions of the National Highways Act, if there is no legal impediment."

8. Since there is dispute between the parties about partition, separate possession and their shares are not been determined by the Competent Court, therefore, certainly there is legal impediment while releasing the amount of compensation by Respondent No.4. The Petitioners have not denied their blood relations with the parties in Regular Civil Suit No. 254 of 2020 and Regular Civil Suit No. 4 of 2016. Respondent No. 4 is not competent authority to decide shares of the Petitioners, who are plaintiffs in RCS 254 of 2020.

9. Since civil suits are pending on the file of learned Civil Judge and rights of the parties are not finally determined, therefore, Respondent No. 4 could not disburse the amount of compensation without ascertaining the right of the parties. The disputed issue cannot be adjudicated in the contempt proceedings.

10. It is well settled that in contempt petition, the Court is required to consider whether the Respondent Contemnor with an intention flouted or breached the order of this Court and this Court under Sec. 12 of the Contempt of Court Act, need not go into the merits of the dispute, but to see whether the disobedience is willful, deliberate and intentional.

11. In case in hand, it shows that, in pursuance of the order dated 30.01.2024, Respondent No. 2 conducted the hearing and passed an order on 05.03.2024 holding that as per complaint made by Sadashiv Champatrao More, no additional 4 R land is acquired by Respondent No. 3 for the purpose of canal, but 4 R land is actually acquired for National Highway No. 361 and directed Respondent No. 4 to proceed for payment of compensation as per the Provisions of the Land Acquisition Act, which does not appear deliberate, intentional disobedience of the order of this Court dated 30.01.2024 and 05.02.2024. Therefore, we do not find that

the Respondents have flouted order dated 30-01-2024 and modified order dated 05-02-2024.

12. In view of above discussion, present contempt petition is hereby dismissed.

(Y. G KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan