

Prajakta Vartak

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13629 OF 2024

Rupesh Janardhan Kamble ...Petitioner
Vs.
State of Maharashtra & Ors. ...Respondents

Mr. Gaurav Potnis with Ms. Amrita i/b. P. H. Potnis for Petitioner.
Mr. Kedar Dighe, AGP with Ms. M. S. Bane, AGP for State.

CORAM: G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

DATE: 03 OCTOBER, 2024.

P.C.

1. We have heard Mr. Potnis, learned counsel for the petitioner and Ms. Bane, learned AGP for the State and its officials/respondent nos.1, 2 and 4. The contesting respondent is the National Highway Authority of India. Mr. Potnis has tendered a copy of his notice serving the proceedings on respondent no.3. It appears that the proceedings are served on 01 October 2024, however, respondent no.3 is not represented.

2. Mr. Potnis has drawn our attention to a communication received by the petitioner from respondent no.3 dated 23 September 2024 (Exhibit-L, page 61 of the petition) to contend that although the petitioner's land was not subject matter of acquisition under the national highway project in

question, the petitioner has been asked to remove the part of the structure which is in fact, being used for storing of cylinders of the gas agency being conducted by the petitioner. It is submitted that even for shifting of the gas cylinders, appropriate permissions from the concerned authority are required to be obtained. However, his primary grievance is that the communication has been issued to the petitioner without the petitioner's land being subject matter of the acquisition.

3. Considering the contention as urged by Mr. Potnis, necessarily we need to hear respondent no.3. Also prima-facie ad-interim protection is required to be granted to the petitioner till respondent no.3 is appeared and heard. We accordingly pass the following order:-

ORDER

- i. Issue notice to respondent no.3, returnable on **17 October 2024**. In addition to the Court notice, learned advocate for the petitioner is permitted to serve respondent no.3 by private service by all permissible modes and place on record an affidavit of service.
- ii. It is clarified that in the event respondent no.3 despite service of notice is not represented on the adjourned date of hearing, the Court shall proceed to hear the petitioner and other respondents as appearing and pass appropriate orders.

iii. Till the next date of hearing, respondent no.3 is directed not to act upon the impugned communication dated 23 September 2024. Ordered accordingly.

iv. Parties to act on an authenticated copy of this order.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)