



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR  
CIVIL APPLICATION (CAW) NO.1634 OF 2024  
IN  
WRIT PETITION NO.8433 OF 2022 (D)  
SHRI SURYANARAYAN S/O PANDURANGJI CHAKOLE AND OTHERS  
VS.  
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS**

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

Court's or Judge's Order

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Mr. Rahul Tajne, Advocate for the Petitioner/s  
Ms Hemlata Dhande, AGP for the respondent No.1/State  
Mr. Ashish Mehadia, Advocate h/f Mr. G.A. Kunte, Advocate for the  
respondent Nos.2 to 4

**CORAM : SMT. VIBHA KANKANWADI & SMT. M.S. JAWALKAR, JJ.**  
**DATE : 28.06.2024**

1. Heard.
2. A Special Bench has been constituted in view of Civil Application with a prayer for direction to the respondents not to disturb the possession of the petitioners over the land in question for next six to eight weeks.
3. The learned Advocate for the petitioners had informed the fact about mentioning the matter to the learned Advocate for the respondent Nos.2 to 4.
4. It is not in dispute that yesterday the Authorities of the respondent Nos.2 to 4 had gone to the spot and the land has been measured by the Government Authorities.
5. The learned Advocate for the petitioners points out the paragraph Nos. 7.1 and 8 of the judgment passed by this Court

on 28.05.2024, wherein it was observed that the matter needs to be remanded to the Arbitrator for recalculating the various values by giving reasons, explaining the discrepancy. It is then, stated that though the part of the relief appears to have been given yet as regards the possession of the petitioners over the disputed land is concerned, the interim order passed by this Court was vacated. The said interim order was in operation since 27.12.2022. Further when the request was made to protect the possession of the petitioners till the Arbitrator recalculates the compensation; the said prayer came to be rejected.

6. The learned Advocate for the petitioners submits that it was not informed to him by the petitioners that there was standing crop in the part of the land and the petitioners have taken flower crop. Photographs of the same are produced on record. He also submits that the petitioners intend to challenge the order passed by this Court before the Hon'ble Apex Court and therefore, he seeks protection to the possession of the petitioners over the land in question for at least four weeks.

7. The application has been strongly objected on behalf of the respondent Nos.2 to 4. It has been stated that the 7/12 extracts appended to the petition do not show that the crop was taken in the land. All of a sudden how there can be crop and that too in the month of May. He accepts that when the Officers of the respondents had gone to the spot yesterday and the measurement was done, at that time, there were flowers in the land. He also submits that now the novel stand has been taken to protect the possession as no such prayer was made that the petitioners intend

to approach the Hon'ble Apex Court, when the order was pronounced by this Court. The respondent Nos.2 to 4 were required to be approached the Police for Police protections for taking possession. Under the circumstance, resistance was offered. It would be the same exercise, if again the protection is granted. In fact, the acquisition of land was for the purpose of Smart City Project and therefore, he submits that the application deserves to be rejected.

8. A perusal of the order and judgment passed by this Court on 28.05.2024 would clarify that the challenge by the petitioners was to the commencement of the proceedings by the respondents as per the Notification No.TPS-2418/Nag, Camp-9/CR-281/2018/UD-9 for the town planning scheme No.1 of Mouza : Pardi, Bharatwada, Punapur and Bhandewadi, Tah. and District : Nagpur and also for quashing of notices dated 02.12.2022 and 09.12.2022 issued by the respondent No.2 for handing over the possession. It also appears that there was a challenge to Resettlement and Rehabilitation Policy (RR Policy) dated 03.02.2021 and a direction was sought to award the compensation under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

9. This Court, vide order dated 27.12.2022 had directed the respondent Nos.2 to 4 not to take any coercive action against the petitioners till next date. Then, it appears that the interim was extended time to time. The question is, as to whether now the relief as prayed by the petitioners can be granted or not ?

10. As already stated that this Court refused to extend the interim till the Arbitrator recalculates the compensation in terms of the paragraph 7.1 of the Judgment, on that day there was no submission that there was crop in the land. Further if at all the crop was there, the person who measured the land would have taken note to the same or even that can be brought on record by the petitioners when the Arbitrator would recalculate the compensation. If there is right to get the possession for said crop, then that would be certainly available with the petitioners.

11. As regards the challenge to the judgment passed by this Court before the Hon'ble Apex Court is concerned, no such prayer was made on the day when the judgment was pronounced. Now when yesterday the steps were taken to get the possession, it appears that the application has been filed.

12. This court has not found any illegality in the entire procedure of acquisition and has also dealt with the legal points raised in respect of the challenge to the scheme as against the fundamental rights. It can also be considered that the question was for public purpose, we do not find that the relief in respect of direction as prayed in respect of possession deserves to be granted. Accordingly, the Civil Application stands **rejected**.

[SMT. M.S. JAWALKAR, J]

[SMT. VIBHA KANKANWADI, J]