



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 7053 OF 2024

(Midas Multyspecility Hospital Pvt Ltd Vs. State of Maharashtra and ors)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. Manohar, Senior Advocate a/b Mr. A.S. Manohar, Advocate for petitioner.

Mr. N.R. Rode, AGP for respondent No.1/State.

Mr. G.A. Kunte, Advocate for respondent Nos. 2 to 5.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATED : 17-12-2024

We have heard Mr. Manohar, the learned Senior Counsel for the petitioner, Mr. Kunte, the learned Counsel for respondent Nos. 2 to 5 and Mr. Rode, the learned AGP for respondent No.1/State.

2. Rule. Rule made returnable forthwith.

3. On 5.12.2024, while issuing notice, we had recorded the following position.

2. The petition questions the communication dated 01/10/2024 (Pg.96), which refuses to grant the land Khasra No.10/3 Mouza Parsodi, Tahsil Nagpur (Rural), District Nagpur, Plot No.567 to the extent of 14466 sq.mtrs. to the petitioner on the ground that the provisions of Regulation 18(3) of the NMRDA (Disposal of Lands) Regulations, 2019 (for short "NMRDA Regulations") do not so permit.

3. Learned senior counsel invites our attention to the fact, that the land of Plot No.567, Khasra No.10/3, Mouza Parsodi was originally owned by the petitioner itself and in terms of the Sumthana-Sondapur-Kotewada-Jamtha-Parsodi Improvement Scheme, which permitted the owner to retain 60% of the land for development in case 40% of the land was transferred to the NMRDA, which having accordingly been done, an Agreement for Development

came to be executed between the petitioner and the respondentsNMRDA on 21/12/2020 (Pg.48) and in terms of Clause-iv and vi, 40% of the land was handed over and the net demand for development of balance 60% of the land permitted to be retained by the petitioner amounting to Rs.2,61,69,000/- was deposited with the respondentsNMRDA. In pursuance to the said Agreement for Development, the petitioner has already constructed the hospital, which is operational.

4. In terms of the NMRDA Regulations viz. Clause 18(1), the petitioner had applied for reverting back the title of the land to the extent of 40%, which was surrendered to the respondents-NMRDA under the aforesaid Scheme, which was for the purpose of constructing a charitable hospital, which having been accepted by a communication dated 26/06/2023 (Pg.83) the respondents-NMRDA indicated having passed a resolution dated 10/03/2023 of permitting the reverting of this 40% land earlier surrendered by the petitioner, back to the petitioner. In pursuance to this, the petitioner has also paid a sum of Rs.1,90,00,000/- as has been demanded in the said communication dated 26/06/2023.

5. The impugned communication, however, now instead of executing deed of lease in favour of the petitioner, has communicated, that in terms of Regulation 18(3) of the NMRDA Regulations, it would not be possible to execute the lease deed.

6. Mr. Manohar, learned senior counsel submits, that what is applicable in the instant matter is not Regulation 18(1) of the NMRDA Regulations, but the proviso thereto in terms of which, land surrendered by the original owner under the aforesaid Improvement Scheme is permissible to be reverted back to such original owner on the payment of 25% of the premium amount or the prevalent market value of the plot determined as per the Ready Reckoner under the Maharashtra Stamps Act. By inviting our attention to Regulation 18(1) of the NMRDA Regulations, it is contended, that the same is not attracted as it contemplates transfer of the land by lease to institutions registered under the Bombay Public Trusts Act, 1950 or Government Department or Semi Government Bodies, only in which case, sub-clause (3) of Regulation 18 of the NMRDA Regulations would be attracted. He therefore submits, that the impugned communication dated 01/10/2024 cannot be sustained in law and is required to be quashed and set aside.

4. Mr. Kunte, learned Counsel for respondent Nos. 2 to 5 does not dispute that the 1st proviso to regulation

18(1) of the NMRDA (Disposal of Land Regulations), 2019, permit the original owner of the land under the improvement scheme to procure the land to the extent of 40% as acquired by the NMRDA while sanctioning the scheme, on payment of 25% of the premium amount or the prevailing market value of the plot as per the ASR prepared under the Bombay Stamp (Determination of True Market Value of the Property) Rules, whichever is higher on such terms and conditions as may be prescribed by the authority. He also does not dispute that the rate has already been determined and the amount paid by the petitioner.

5. Since it is not disputed and in fact, cannot be disputed in light of the language of the 1st proviso to regulation 18(1) of the aforesaid regulation that the original has right to get an allotment on lease of 40% of the land acquired from him at the time of sanction of the scheme, we do not see any how the provisions of regulation 18(3) would be attracted in the matter, as the matter would be squarely governed by the 1st proviso to regulation 18(1) of the aforesaid regulation.

6. In that light of the matter, the impugned communication 1.10.2024(page 96) is hereby quashed and set aside and it is held that the petitioner is entitled to buyback 40% of the land which was acquired by the respondent Nos. 2 to 5 at the time of sanction of the scheme from the petitioner, which in fact, was allotted to the petitioner in terms of the allotment letter dated 26.6.2023 (page 83). Rule is therefore, made in the above terms. No costs.

Needless to mention that considering that the land is being required for construction of charitable hospital and it is not disputed that the petitioners have already complied with all the formalities including deposit of the premium calculated on the market price, the lease shall be executed and registered in favour of the petitioner within a period of eight weeks from today.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

Belkhede