



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6192/2024

(Hariprasad Mahadevprasad Kesarwani Vs. Akola Municipal Corporation, Akola)

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

Court's or Judge's orders

Mr. N.A. Parwani, Advocate for the petitioner.

CORAM: NITIN W. SAMBRE & MRS.VRUSHALI V. JOSHI, JJ.
DATED: 16.10.2024.

Heard.

2. It is the case of the petitioner that in the road expansion the respondent Municipal Corporation - planning authority under the Maharashtra Regional Town Planning Act encroached on area to the extent of 75.71 Sq. Mtrs. without there being any acquisition proceedings. So as to substantiate the claim of encroachment by the respondent Corporation support is drawn from the measurement map for which measurement was carried on 20.1.2022. According to the learned Advocate for the petitioner the encroachment was carried out in 2017 and petitioner repeatedly approached the respondent authority seeking compensation. So as to substantiate the claim support is drawn from the measurement sheet at Annexure F and the representations at Annexure D and Annexure G.

3. The petitioner tries to justify his title to the aforesaid property by virtue of the title deed and mutation entry.

4. If we appreciate the aforesaid submissions of the

petitioner, it is admitted by the petitioner in the pleadings so also in the representations that the road expansion scheme was executed in 2017. For last seven years the petitioner has not taken any steps but for the representations which were preferred in May 2022 and March 2024.

5. The fact remains that from 2017 till 2022 no steps were taken by the petitioner and it is only by way of afterthought that too by relying on the measurement report it is claimed that the respondent Corporation has encroached on the land owned by the petitioner.

6. Apart from above, it is to be noted that to the measurement in question the respondent Corporation was not a party.

7. In such an eventuality, it cannot be *prima facie* inferred that the land owned by the petitioner was encroached by the respondent.

8. Apart from above, the petition suffers from delay and laches.

9. Though the petitioner has sought to rely upon the judgment in case of Kolkata Municipal Corporation & Anr. V/s. Bimal Kumar Shah & Ors. in Civil Appeal No.6466/2024 dated 16.5.2024 and Yusuf Yunus Kantharia V/s. Bombay Housing and Area Development Authority in Writ Petition No.700/2003 delivered on 1.8.2024, the fact remains that in the said cases the claim was put-forward by the land owner within a reasonable period. The petitioner by making delayed representations is trying to bring his time barred claim within the limitation by relying on the measurement report, to which the respondent Corporation was admittedly not a party to.

10. In that view of the matter, we refrain ourselves

from causing any interference in extraordinary writ jurisdiction. The petition stands dismissed accordingly.

(MRS.VRUSHALI V.JOSHI, J.)

(NITIN W. SAMBRE, J.)