



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.8016 OF 2024
IN
WRIT PETITION NO.63 OF 2021**

Suresh Kalya Dhodade and Ors.	...	Applicants
and		
Parvez Shapur Irani	...	Petitioner
and		
Vijaykumar Motilal Bothra and Ors.	...	Respondents

Mr. Satyaram R. Gaud with Mr. Maniram R. Gaud i/by Mr. Satish Gharat, for Applicants.

Mr. Aurup Dasgupta with Ms. Drshika Hemnani and Prapti Bhadra i/by Jhangiani, Narula and Associates, for Org. Petitioner in WP No.63 of 2021.

CORAM: N.J.JAMADAR, J.

DATE : 6 JANUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application in WP No.63 of 2021 which came to be disposed of by an order dated 30 June 2020. The said Writ Petition was preferred against an order passed by the learned District Judge dated 29th February 2020 whereby the Ld. District Judge had modified the injunction granted by the trial court in Special Civil Suit No.45/2019, as under :

“Temporary injunction restraining the Defendant from handing over the suit land in acquisition proceeding to the competent authority and restraining the defendant for taking the amount of compensation in respect of the acquisition of the acquired land from the competent authority under the provision of National Highway Act, 1956, is hereby set-aside.

Rest of the order of the Trial Court is Confirmed.”

3. In WP No.63 of 2021 this Court was persuaded to partly allow the Petition in the following terms :

“7. The Defendant is required to handover possession of the subject land to the Competent Authority. However, as regards compensation, the NHAI is directed by this order to deposit the entire amount of compensation as determined by the Competent Authority in the Court of the Civil Judge Senior Division, Palghar. NHAI/the Competent Authority is not to disburse the amount to either side in this litigation. The amount will remain deposited with the Court until final disposal of the Suit. The amount when deposited is to be invested by the Court in accordance with usual practices of that Court’s registry.”

4. By a further order dated 18 April 2024 in WP No.63 of 2021, this Court directed that the Writ Petition be treated to have been disposed and, accordingly, paragraph No.13, came to be added in the order dated 30 June 2020.

5. Learned Counsel for the Applicants submitted that the Applicants are affected by the order passed by this Court in WP No.63 of 2021. Attention of the Court was invited to a communication dated 21 January 2022 addressed by the Competent Authority to the effect that the amount of compensation which was appropriated in the ratio of 60% to the tenants and 40% to the land holders, has been deposited in the Court pursuant to the order passed by this

Court. The Applicants had preferred an application before the Civil Court to implead them as parties in Special Civil Suit No.45 of 2019. However, the said application came to be rejected. The trial of the Suit would take a long time. The order passed by this Court causes serious prejudice to the applicants. Therefore, the order be modified.

6. Learned Counsel for the Petitioner in WP No.63 of 2021 raised an objection to the tenability of the application as the Petition No.63 of 2021 has been disposed in the year 2020 and the applicants who were not the parties to the suit before the trial Court have no locus to now seek modification of the order passed by this Court.

7. Since Writ Petition No.63 of 2021 has been disposed by an order dated 30 June 2020, the prayer for modification of the said order by way of an Interim Application in a disposed of Petition, on first principles, cannot be entertained. Secondly, it is pertinent to note that the genesis of the Petition No.63 of 2021 was in an order passed by the trial Court in Special Civil Suit No.45 of 2019 granting injunction, which was carried in appeal, under Order 43 of the Code of Civil Procedure, 1908. The remit of WP No.63 of 2021 was, thus, restricted to the examination of legality, propriety and correctness of the order passed by the appellate Court in MCA No.31 of 2019. Secondly, since the applicants had filed an application for impleadment before the trial Court and the said application has been rejected, the proper remedy for the

applicants is to assail the said order.

8. It is, however, clarified that the order passed by this Court in WP No.63 of 2021 was restricted to the examination of legality, propriety and correctness of the order dated 29 February 2020 passed in MCA No.31 of 2019 and the said order may not impair rights of the applicants if they are able to independently establish their right to claim compensation deposited pursuant to the order of this Court and to seek appropriate remedies as available in law.

9. The Interim Application stands disposed.

(N.J.JAMADAR, J.)