(2018) 01 BOM CK 0072

In the Bombay High Court

Case No : 2742 of 2002

M/s Manganese Ore India) Ltd. APPELLANT

Vs

The State of Maharashtra RESPONDENT

Date of Decision : 18-01-2018

Acts Referred:

Citation : (2018) 01 BOM CK 0072

Hon'ble Judges : B.P. Dharmadhikari, Swapna Joshi

Bench : Division Bench

Advocate : Masood Sharif, ?T.Khan, ?Girish A. Kunthe

Final Decision : Disposed Of

Judgement

1. Heard for some time. It appears that the land in question was leased

out initially to Central Provinces Manganese Ore Company Limited and as per entry

dated 04.11.1941, it also surrendered some land for construction of a public road on "no

claim basis". The property, after nationalization, has come to present petitioner.

2. Documents on record show that there was a lease-deed for a period upto

31st March,1978 and it may have been renewed for a period of 30 years, upto 2008. On

21st June 2017, there is further renewal for a period upto 31st March 2038.

3. For widening of public road under Integrated Road Development Project

(''IRDP''), respondent no.2 acted as a nodal agency and more land of petitioner has been

utilized for that purpose. As land from that periphery of plot has been taken, area of

portion used for road is about 761.60 sq.metre.

4. For using this portion for public road, petitioner claimed compensation

as per the Ready Reckoner prepared by the State Government. They have through their

Advocate served a legal notice dated 1st July 2002 claiming compensation amount of

Rs. 83,77,600/- with 30% solatium.

5. Adv. Sharif arguing for petitioner, has submitted that this amount coupled

with other compulsory additions and interest calculated at 9% and 15% runs into crores

by this date. He points out that respondent no.2 has now disowned its liability and has

pointed out that road belongs to Nagpur Municipal Corporation (''NMC'') therefore, NMC

has to pay the amount. Hence, by way of abundant precaution, Civil Application seeking

leave to add NMC as party-respondent has been filed. He further submits that

respondent no.2 has expressed its inability to pay the amount of compensation and

has asked petitioner to take proportionate transfer of development right (TDR) as per

law. According to learned counsel, TDR can be useful to a private / individual owner

or a builder, but for Government Company like petitioner, TDR is of no use.

6. Adv.Kunthe, on behalf of respondent no.2, submits that under IRDP,

respondent no.2 was only a nodal agency and as per Government scheme it has

completed the work. The road belongs to NMC and NMC was always the Planning

Authority and, as such, NMC has to pay necessary amount.

7. Learned AGP appearing for respondent no.1 states that under IRDP,

widening of road has been carried out. As per the scheme, respondent no.2 has

executed that work. She further submits that Government appears to have leased out the land to petitioner and as per last renewal executed on 21st June 2017, Government

has granted renewal upto 31st March 2038. She submits that details in relation to earlier

lease are not on record and Government could have very well cancelled the lease of

proportionate portion or then at the stage of renewal, refused to renew it for 761.60

sq.mt. of land.

8. We find that several disputed questions arise. Not only this, NMC is not a

party to present petition and by Civil Application moved, almost after 15-years of filing of

petition, attempt is being made to bring it into picture.

9. On 22nd September 2017, this Court, after hearing parties, permitted

petitioner to give documents showing its ownership to respondent no.2. However, it is

interlocutory/interim order. It does not decide the controversy either way.

10. Facts on record show that land leased out to petitioner has been used for

widening of public road and work has been completed by Nagpur Improvement Trust. The

work was under IRDP and hence question at this stage is, whether Planning Authority

was then in any way connected with or involved in the Project. All these questions

become relevant because then there could have been or would have been a provision for

acquisition and payment of compensation to petitioner. Material on record is insufficient

to find out all these aspects. We cannot ignore submission of learned AGP that if land

belongs to State Government and was to be used for public purposes, State Government

could have, while renewing lease, excluded or cancelled lease of the peripherial portion

by taking recourse to necessary provisions of law.

11. We find that the petitioner had leasehold rights on the land and a clause

in lease also permits it to sell the same after obtaining necessary clearances from Office

of Collector, including payment of unearned income. The respondents before this Court

are public authorities. The respondent no.2 and NMC are local authorities. The petitioner

again is an undertaking of Government of India. It is therefore question of public money

changing hands only.

12. In this situation, we direct respondent no.1-Secretary to hear the

petitioner, respondent no.2 and also NMC and pass suitable orders in this respect at the

earliest and, in any case, within a period of three months from today.

13. The amount found due and payable shall be made over to petitioner within

a further period of two months. Acceptance of that amount shall not preclude petitioner

from challenging correctness of the exercise undertaken.

14. We direct parties, including the NMC through its Commissioner, to

appear before respondent no.1-Secretary on 5.2.2018 and to abide by its instructions

in the matter. The petitioner to communicate this order to the office of NMC and also

specifically bring it to the notice of Municipal Commissioner.

15. With these directions and keeping all rival contentions open, we partly

allow the Writ Petition and dispose it of. Civil Application Nos. 124 and 125 both of 2018

also disposed of. No costs. Certified copy expedited.

