
(2016) 06 BOM CK 0152
In the Bombay High Court
Case No : Writ Petition No. 1954 of 2001

Shri. Arvind Shreenivas Bobde	Vs	APPELLANT
State of Maharashtra		RESPONDENT

Date of Decision : 13-06-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Land Acquisition Act, 1894 — Section 4

Citation : (2016) 5 AIRBomR 16

Hon'ble Judges : B.P. Dharmadhikari and Ku. Indira Jain, JJ.

Bench : Division Bench

Advocate : Shri. S.V. Manohar, Senior Advocate with Shri. Gaikwad, Advocate, for the Petitioner; Shri. S.B. Bissa, Asstt. Govt. Pleader, for the Respondent No. 1; Shri. J.B. Kasat, Advocate, for the Respondent No. 2

Final Decision : Partly Allowed

Judgement

B.P. Dharmadhikari, J.(Oral)—The matter was heard some time in first week of June, 2016 and came to be adjourned to today at the request of Shri. Kasat, learned Counsel appearing for respondent no.2 Municipal Corporation. Shri. Kasat, learned Counsel submits that instructions in writing are still awaited.

2. Petitioner claims to be owner of a plot admeasuring 12500 sq. ft. in Ward No.82, House No. 224 in Civil Lines area of Nagpur City. According to him it is surrounded on North by Palm Road; on West by Rabindranath Tagore Road, and the plot is located at the junction, popularly known as "Akashwani square".

3. Shri. Manohar, learned Senior Counsel submits that in April, 2001 while implementing Integrated Road Development Scheme, unauthorisedly, without any notice or permission, area admeasuring about 100 sq. ft. to 150 sq. ft. at the corner of the property has been taken into possession by the respondent no.2 and has been built upon. He submits that no compensation whatsoever has been paid to the petitioner, and hence, by present petition prayer is to direct the respondents to release the amount of compensation, as also rental compensation

from the date of taking over possession till issuance of a notice under Section 4 of the Land Acquisition Act, 1894. He is placing reliance upon a judgment of Hon^{ble} Supreme Court reported at (2012 (11) Scale 4 (Tukaram Kana Joshi and others v. M.I.D.C. and others).

4. Shri. Kasat, learned counsel appearing on behalf of respondent no.2 submits that as per records received by him only 8 sq. mtrs. of land out of plot of petitioner got affected. He states that the issue is being looked into by the various authorities, and if the grievance of petitioner is found to be genuine, the same shall be redressed.

5. This Court has admitted the matter on 08.10.2001, neither the respondent no.1 nor respondent no.2 filed any reply affidavit and the assertions on oath have remained untraversed.

6. From judgment delivered by the Hon^{ble} Court in case of Tukaram Kana Joshi (supra), it appears that in identical situation, the acquiring authority agreed to publish notification under Section 4 of the Land Acquisition Act within a period of four weeks from the date on which the matter was looked into by the Hon^{ble} Supreme Court. On the basis of this statement, further orders are passed by the Hon^{ble} Supreme Court. The directions are contained in paragraph no.20 of the said judgment.

7. Here the petitioner has also claimed rental compensation which is payable to persons from whom possession is taken before issuance of Section 4 notification. Its payment is regulated by various Government resolutions.

8. In this situation, we direct the respondent to first hear the petitioner and to find out the exact area of which possession has been taken from the petitioner. This exercise shall be completed within a period of four weeks from today. Thereafter, the respondents shall proceed to acquire the land in accordance with law and necessary steps in this respect shall be taken within next four weeks.

9. The petitioner shall be also entitled to receive rental compensation. Thus, for land taken in possession for the period commencing from loss of possession till initiation of steps to acquire it, the petitioner shall be paid rental compensation.

10. In view of above discussion, Writ Petition is, partly allowed and disposed of. Rule is made absolute in the aforesaid terms, with no order as to costs.