

VERDICTUM.IN

1

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No.7634 OF 2023
(Arising out of SLP(C)No.25507/2023 @ D.No.40013/2023)

NANDKISHOR BABULAL AGRAWAL

... APPELLANT

Versus

THE STATE OF MAHARASHTRA & ORS.

... RESPONDENTS

O R D E R

1. Delay condoned.

2. Issue notice to respondent No.2 only.

3. Mr. Suhaskumar Kadam, learned counsel, who appears on caveat on behalf of respondent No.2, accepts and waives service of formal notice upon the said respondent. He states that no counter-affidavit is required to be filed at this stage.

4. Leave granted.

5. The challenge in this appeal is to the judgment dated 12.04.2023 passed by the High Court of Judicature at Bombay, Bench at Aurangabad, whereby the Writ Petition filed by the appellant along with proforma respondents, seeking a declaration that the acquisition of their land comprising plot Nos.3, 4, 5 and 7 out of final plot No.153, admeasuring 1 hectare 63 R, situated at Taluka and District Dhule is deemed to have lapsed, has been dismissed.

6. The facts are broadly admitted. The subject land was included in the sanctioned Development Plan of the municipal area, for which the acquisition process was initiated under the Maharashtra Regional and Town Planning Act, 1966 (for short, 'the MRTTP Act'). Under the said Act, the land is to be acquired following the procedure contemplated under the Land Acquisition

Act, 1894 (for short, 'the 1894 Act'). Consequently, Notifications under Sections 4 and 6 were issued, followed by rejection of objections under Section 5A of the Act on 05.01.1978. The Special Land Acquisition Officer passed an Award on 19.09.1986. It is averred that physical possession of the acquired land was taken over on 24.09.1986. The appellant and his co-owners preferred Land Acquisition Reference No.20/1989 before the Civil Judge, Senior Division, Dhule seeking enhancement of compensation. The Reference Court accepted their claim and enhanced the compensation amount from Rs.3,15,492.65 to Rs.6,07,060/- along with interest at the rate of 12% per annum from the date of Notification till the date of Award. A solatium at the rate of 30% and interest at the rate of 15% per annum in terms of the provisions of the 1894 Act were also awarded.

7. The Dhule Municipal Corporation, thereafter, filed a Review Petition before the Reference Court bearing Civil Miscellaneous Application No.71/2011 but the same was turned down by the Reference Court on 01.09.2014.

8. The appellant(s) served a notice on the Municipal Corporation on 26.03.2018 claiming restoration of their land after the acquired land had been released by the State Government from the development plan vide a Notification dated 03.07.2015. The appellant(s) also sent a cheque of Rs.3,15,492.65 towards refund of the compensation amount received by them as per the Award of the Special Land Acquisition Officer. On denial of this claim by the authorities, the appellant along with his co-owners approached the High Court and, as noticed earlier, their writ petition has been

dismissed vide the impugned judgment.

9. We have heard learned senior counsel/counsel for the parties and carefully perused the material placed on record.

10. It is not in dispute that the acquisition has attained finality and the land stands vested in the State/Municipal Corporation free from all encumbrances. There is indisputably no provision under the MRTP Act enabling the State Government to release the acquired land.

11. In our considered view, the High Court would be extremely circumspect to issue a mandamus in the exercise of its extraordinary jurisdiction under Article 226 of the Constitution, directing to release a lawfully acquired land only on the premise that such land has not been utilized for the public purpose for which it was acquired. There is no gainsaying that once the land vests in the State or its authorities, the `public purpose' of its acquisition can be changed at a later stage. All that is required is that such land should be utilized for public purposes only. In fact, there cannot be a time limit within which the authorities are expected to utilize the acquired land. The Municipalities or such other agencies are expected to have long-term plans for regulated development of urban areas and for that purpose, certain pockets of land are required to be kept vacant as reserve pool to cater the future needs.

12. The High Court has thus rightly declined the claim of the appellant(s). We see no legal infirmity in the impugned order, to invite interference by this Court.

13. Faced with this, learned counsel appearing on behalf of

VERDICTUM.IN

the appellant submits that the enhanced amount of compensation, pursuant to the Award passed by the Reference Court on 31.12.2010, against which a Review Petition filed by the Dule Municipal Corporation was dismissed on 01.09.2014, has not been paid so far. If that is so, we are of the view that the appellant/land owners are entitled to payment of such enhanced compensation awarded to them by the court of competent jurisdiction.

14. It needs hardly any emphasis that the Dhule Municipal Corporation/State were obligated to deposit the enhanced amount of compensation with the Reference Court at the earliest after their Review Petition was dismissed on 01.09.2014 so as to enable the land losers to withdraw such compensation amount. We, therefore, direct the Dhule Municipal Corporation/State Government to deposit the enhanced amount of compensation along with interest accrued thereupon, at the rate as prescribed under Sections 28 and 34 of the 1894 Act, with effect from 31.12.2010 till date, with the Reference Court, within a period of two months. The Reference Court shall release that amount to the appellant and other landowners without any delay and in accordance with law.

15. The appeal stands disposed of in the above terms.

16. As a sequel thereto, the pending interlocutory application also stands disposed of.

.....J.
(SURYA KANT)

.....J.
(DIPANKAR DATTA)

NEW DELHI;
NOVEMBER 10, 2023.

ITEM NO.7

COURT NO.5

SECTION IX

**S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS**

SPECIAL LEAVE PETITION (CIVIL)Diary No(s).40013/2023

(Arising out of impugned final judgment and order dated 12-04-2023 in WP No.417/2021 passed by the High Court of Judicature at Bombay at Aurangabad)

NANDKISHOR BABULAL AGRAWAL

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.229284/2023-CONDONATION OF DELAY IN FILING and IA No.229285/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 10-11-2023 This petition was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE DIPANKAR DATTA**

**For Petitioner(s) Mr. Manoj Swarup, Sr.Adv.
Mr. Sandeep Singh, AOR
Mr. Sushil Karanjkar, Adv.
Mr. Dhawesh Pahuja, Adv.
Mr. Neelmani Pant, Adv.**

**For Respondent(s) Mr. Suhaskumar Kadam, Adv.
For M/S. Black & White Solicitors, AOR**

**UPON hearing the counsel the Court made the following
O R D E R**

- 1. Delay condoned.**
- 2. Issue notice to respondent No.2 only.**
- 3. Mr. Suhaskumar Kadam, learned counsel, who appears on caveat on behalf of respondent No.2, accepts and waives service of formal notice upon the said respondent. He states that no counter-affidavit is required to be filed at this stage.**
- 4. Leave granted.**
- 5. The appeal stands disposed of in terms of the signed order.**

VERDICTUM.IN

6

6. As a sequel thereto, the pending interlocutory application also stands disposed of.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(PREETHI T.C.)
COURT MASTER (NSH)

(Signed order is placed on the file)