

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10877 OF 2019

SUHAS KESHAVRAO PATIL AND ANOTHER
VERSUS
SAYEDA ASEMABEGUM NAIMODDIN KAZI

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Advocate for Petitioners : Shri Kolpe Mahendra B.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: August 31, 2019

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PER COURT :-

1. The petitioners are aggrieved by the order dated 16.3.2019 passed by the trial Court, by which, application Exhibits 21 and 23, filed by the State in LAR No.12 of 2017, have been rejected.

2. I have considered the strenuous submissions of the learned Advocates for the petitioners and have gone through the grounds formulated in the memo of the petition.

3. The petitioners and respondents are parties to the Land Acquisition in Gut No.98, admeasuring 1118 sq. meters for the purposes of the National Highway No.211. The final decision with regard to acquisition was delivered on 17.2.2016 and both these petitioners were held entitled for a total amount of Rs.67,56,917/-. A dispute was raised by the respondent herein and as a consequence of

which, the said decision dated 5.1.2017 rendered the proceedings to the learned Civil Judge S.D., Osmanabad.

4. The matter was registered before the Civil Court as LAR No.12 of 2017.

5. These petitioners then approached the same competent authority-cum-Deputy Collector (Land Acquisition), by filing an application for seeking review. By an undated order, indicating that it has been passed in January 2019, the said Deputy Collector Shri Shirish Yadav has allowed the review application and has called upon the petitioners to approach the Civil Court for returning the case papers to his office.

6. As the State moved Exhibits 21 and 23 before the LAR Court, the impugned order was passed, concluding that the competent authority had no power flowing from the National Highways Act or under any other provision, by which, he could exercise jurisdiction over a matter which was forwarded to the LAR Court two years ago. The case papers were also before the LAR Court and the competent authority exercised jurisdiction not vested in it by law by reviewing it's order so as to hold that the petitioners are entitled for the compensation amount.

7. I find that the trial Court has rightly passed the impugned order. It has noticed that the competent authority did not have any jurisdiction to recall its order dated 5.1.2017 after two years and that too without any provision empowering the competent authority to do so. I find that this is a fit case to record the displeasure of the Court for the manner in which the competent authority Shri Shirish Yadav has attempted to overbear the authority of the Civil Court and has demonstrated over indulgence in the matter involving an amount of Rs. 67,56,917/-.

8. This petition is, therefore, dismissed. The learned Registrar (J) of this Court is directed to place a copy of this order before the District Collector, Osmanabad for issuing necessary directions and initiate an appropriate action so as to prevent such competent authorities from passing illegal orders.

(RAVINDRA V. GHUGE, J.)

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akl/d