

Imran Imtiaz Kanga Thr. Petitioner No.3 ... vs State Of Maharashtra Thr. Its ... on 3 February, 2020

Bench: S.J. Kathawalla, B. P. Colabawalla

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION No. 325 OF 2019.

Mofatraj Pukhraj Munot & Ors ..Petitioners.

Vs

Union of India through its Secretary
Ministry of Civil Aviation & Ors ..Respondents.

Mr. Ashish Kamat a/with Subit Chakrabarti and Ms. Jayshree i/by Vidhii
Partners, Advocates for the Petitioners.

Mr. Rajiv Chavan a/with Shruti Vyas & Priyanka Chavan for Respondent Nos. 1
to 4.

Mrs. A. A. Purav, AGP for Respondent-State.

Mr. Naval Kishor Ram, Collector Pune present.

Mr. Rahul Bhasin, Air Ofcer rCommanding Air Force Station, Lohegaon, Pune.

CORAM : S.J. KATHAWALLA &
B. P. COLABAWALLA, JJ.

DATED :- 3rd February, 2020.

P.C. :-

1. In Writ Petition4625 of 2017 this Court rCoram : Ranjit More and
19-CP-325-19.doc Smt. Anuja Prabhudessai, JJ) passed the following order on 2nd
July, 2018.

"2. The Petitioners are the owners of Survey Nos.129, 154, 156 and 157 situated at Lohgaon, Taluka Haveli, Pune. The subject land is more appropriately described at ExhibitA page No.44.

3. The Central Government Notification dated 14 February, 2007 issued in exercise of powers under Sections 3 and 7 of the Works of Defence Act 1903 (1903), imposed restrictions upon the use and enjoyment of the land in the vicinity of the Indian Air Force Station and Installations. Under the said notification, no building or structure can be constructed, created or erected or no tree shall be planted within the limits of 900 meters from the crest of the outer parapet of Indian Air Force Stations and Installations specified in Annexure'B' to the said notification, which included Air Force Station Lohagaon, Pune. As stated above, the Petitioners' land as described above, is affected by the restrictions imposed by the said notification.

4. In terms of the said notification, the Collector, Pune, issued a public notice dated 9 April, 2018 as per, which refers to the Petitioners' land bearing Survey Nos.154, 156 and 157. It is not in dispute that though the land bearing Survey No.129 is not mentioned in the said notice, the same is also affected by the restrictions.

5. The Petitioners' claim that the Respondents have not followed the procedures under Works of Defence Act, 1903 and have not paid compensation for the restriction on the user of the said land.

6. Mr. Naval Kishor Ram, the Collector, Pune, RespondentNo.6 has filed his affidavit dated 22 June, 2018. In paragraph 12 of the said affidavit, he has made a specific statement, which reads thus:

19-CP-325-19.doc " 12. I say that, the Collector Office is ready to initiate the procedure of passing the award and to pay compensation in respect of restricted zone of the Village Lohagaon according to the provisions of WoD Act, 1903. However, the Respondent Nos.1 to 4 has to deposit the measurement fees and payment of compensation of restricted zone."

7. Mr. Vanarase, the learned AGP submits that though the Collector Office decides the compensation in respect of the Petitioners' land which are affected by the said notification of the Central Government under Works of Defence Act, 1903, the compensation is required to be paid by the Central Government. Mr. Patil, the learned counsel for the Respondent Union of India, on instructions, states that the Respondents Union of India is ready and willing to pay the measurement fees and compensation. He submits that necessary money to be paid by way of compensation and measurement fees shall be made available to the Respondent No.6. Statement is accepted.

8. Mr. Vanarse, the learned AGP for the Respondent State, on instructions submits that the process for fixing compensation and payment in respect of the Petitioners' land for the restriction on the user

of the subject land as per the procedure referred above would be completed within a period of nine months from today in accordance with law. Statement is accepted.

9. In the light of above, Mr. Sathe, the learned senior counsel for the Petitioners fairly concedes that grievance raised in the petition stands redressed. Hence, the writ petition stands disposed of"

2. In view of the above statements made by the Advocates for the parties, the Writ Petition was disposed of. However, neither the Central Government nor the State Government have acted upon the statements made by 19-CP-325-19.doc them as far back as on 2nd July, 2018 and have in fact breached the same, compelling the Petitioners to file the above Contempt Petition. Today Shri Naval Kishor Ram, Collector Pune and Mr. Rahul Bhasin, Air Officer Commanding Air Force Station, Lohegaon, Pune are present in Court. They have filed their respective affidavits. The Collector has stated in his Affidavit that the work of carrying out necessary measurements shall commence within a period of one week from 5th February, 2020. The Collector has also stated in his affidavit that after the measurements are carried out, the amount of compensation will be decided within one month as per the prevalent rules and the same will be communicated to the Air Force Authorities. The statements made by the Collector are accepted. Though the parties have breached the Order passed by this Court dated 2nd July, 2018 and are therefore guilty of contempt, we accept their unconditional apology and direct the Air Force Authority to pay compensation to the Petitioners within a period of 90 days from the receipt of the communication from the office of the Collector qua the compensation payable.

The Contempt Petition is disposed of.

(B.P. COLABAWALLA, J.)

(S.J. KATHAWALLA, J.)

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