

CASE NO.:
Appeal (civil) 2641 of 2008

PETITIONER:
M/S. SANDANAND GARAGE

RESPONDENT:
STATE OF MAHARASHTRA & ORS

DATE OF JUDGMENT: 07/04/2008

BENCH:
ALTAMAS KABIR & J.M. PANCHAL

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO. 2641 OF 2008
(Arising out of SLP(C)No. 915/2007)

Leave granted.

Having heard learned counsel for the respective parties we are inclined to dispose of the appeal itself.

As will appear from the materials on record, the appellant was running a garage on the property which forms the subject matter of the appeal, and was sought to be acquired at the instance of the respondent No.2 which is a statutory trust.

After award had been passed under Sec.11, possession was alleged to have been taken over by the Land Acquisition Collector on 17.2.2004 under Section 16 of the Land Acquisition Act, 1894. From the letter written by the Special Land Acquisition Collector to the

-2-

solicitor of the appellant, possession was made over by the Collector to the Chief Executive Officer of the respondent No.2 immediately after possession was taken under Sec.16 of the aforesaid Act.

It is the appellants' case that physical possession had not been taken by the Collector and subsequently he was dispossessed by the respondent No.2 and that in the process various articles said to have been kept in the premises had been removed.

The appellant in the meantime filed a writ petition in the Bombay High Court in its Original Side challenging the Notification under Sec.6 of the Land Acquisition Act and in the said writ petition Notice of Motion was taken out praying for certain interim reliefs which were, however, refused. Subsequently, another Notice of Motion also for interim reliefs, including a prayer for expeditious hearing of the writ

petition, was dismissed. It is against the order of the dismissal of the Notice of Motion dated 21.3.2005 that the present appeal has been filed wherein the interim prayers made before the High Court have been sought to be reiterated. Such prayers also include the restoration of the materials alleged to have been removed from the premises after physical possession was taken over by the respondent No.2.

-3-

At this juncture it may be indicated that the appellant has also filed a Reference petition under Sec.18 of the Land Acquisition Act, 1894, which is pending before the Special Land Acquisition Judge and is yet to be disposed of. The owner of the property has also filed a reference and both are pending.

From the counter affidavit filed on behalf of respondent No.2 in this Court the claim of the appellant in the reference has been set out and it includes the claim for the damage sustained on account of removal of the goods which were said to have been kept in the premises in question.

Having considered the submissions made on behalf of the respective parties, we are not inclined to interfere with the order passed by the High Court except to the extent that the High Court, if possible, should try and dispose of the writ petition as expeditiously as possible, preferably within a period of three months from the date of communication of this order.

-4-

We also make it clear that we have not gone into the merits of the claims made on behalf of the appellant and the appellant would be entitled to proceed with the same before the Reference Court or before any other Forum as may be available to the appellant.

The appeal is disposed of accordingly.

There will be no order as to costs.