

NON REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3874 OF 2015

[@ SPECIAL LEAVE PETITION NO. 35634 OF 2013]

PRADYUMNA MUKUND KOKIL

Appellant(s)

VERSUS

STATE OF MAHARASHTRA & ORS.

Respondent(s)

J U D G M E N T

ANIL R. DAVE, J.

1. Leave granted.
2. Heard the learned counsel appearing for the parties at some length.
3. The facts which are not in dispute are that the appellant is the owner of the land admeasuring 37 acres of Survey No. 8/1, Village - Deolali, Taluka - Nasik, District Nasik, Maharashtra.
4. By virtue of the impugned order, the Respondent-State has been directed to acquire the said land as Respondent No. 3 - Municipality has constructed a road on the said land.
5. The only objection which the learned counsel for the appellant has raised is about the observation made in paragraph 27(b) of the impugned Judgment with regard to adverse possession of the Municipality. According to Respondent No. 3-Municipal Corporation, the Corporation was in possession of the land belonging to the

appellant.

6. The appellant claims to be the owner of the land in question and even as per the Revenue Records, the appellant appears to be the owner.

7. In our opinion, it was not fair on the part of the High Court to permit Respondent No. 3 - Municipality to raise a plea with regard to adverse possession. It would not be proper on the part of the Government body or any state authority to take possession of somebody's land without following due process of law and even if a citizen has permitted his land being used by a government authority, the authority should not take undue advantage thereof at the time of giving compensation when the said land is acquired.

8. In the circumstances, we delete paragraph 27(b) of the impugned Judgment whereby Respondent No. 3 - Municipal Corporation has been permitted to take plea with regard to adverse possession.

9. It has been submitted by the learned counsel appearing for the State of Maharashtra that during the pendency of the present appeal, necessary formalities for acquiring the land in question has not been initiated. It is hoped that the respondent-State shall initiate the proceedings within four months from today.

10. In view of the above modification in the impugned Judgment, the appeal stands disposed of as allowed to the above extent with no order as to costs.

11. It is made clear that the rest of the impugned Judgment shall remain as it is.

.....J.  
[ ANIL R. DAVE ]

.....J.  
[ V. GOPALA GOWDA ]

.....J.  
[ C. NAGAPPAN ]

New Delhi;

April 22, 2015.



JUDGMENT