

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.9741-9742 OF 2010
(Arising out of SLP(C) Nos.5243-5244/2010)

TATA COMMUNICATION LTD.

Appellant(s)

:VERSUS:

SANTOSH BABANRAO WALKE AND ORS.

Respondent(s)

O R D E R

1. Leave granted.
2. These appeals are directed against an interim order dated 20th January, 2010 passed by the Division Bench of the High Court of Judicature at Bombay in Public Interest Litigation No.109 of 2008 and Writ Petition No.9163/2009.
3. Brief facts which are necessary to dispose of these appeals are recapitulated as under:

The land measuring about 774 acres was acquired by the Government of Bombay for Indian Radio Telegraph Company, in the year 1925. In the year 1947, after independence, this company was taken over by the Government of India giving birth to Overseas Communication Service - a Department of the Government of India and the lands were transferred in the name of the President of India.

4. In the year 1986, it was transferred to Videsh Sanchar Nigam Ltd. (VSNL), a wholly owned Government of India undertaking to whom all assets and liabilities of Overseas Communication Service were transferred. The land has been in use and possession of the appellants and their predecessors for the last 85 years. After a delay of about 85 years, a public interest litigation was filed in the Bombay High Court. It may be pertinent to mention here that when this petition earlier came up for hearing before a Division Bench of the High Court on 22.7.2009, following order was passed:

"1. Heard.

2. We will highly appreciate if the respondent-State is able to place on record as to whether any Award under Section 11 of the Land Acquisition Act, 1894 was passed subsequent to the notification issued under Section 6 of the Land Acquisition Act and published in the Bombay Government Gazette dated August 20, 1925 in respect of the subject land. We also grant leave to the petitioner to suitably amend the petition which is in the nature of public interest litigation, for which an application should be filed alongwith the Schedule of Draft Amendment, as in our view the relief sought in the petition can only be restricted to payment of compensation.

3. Stand over to 36th August, 2009."

5. On 20th January, 2010, while issuing rule in the

petition, the Bombay High Court directed that during the pendency of the petition, respondent-authorities i.e. State Government as well as Bharat Sanchar Nigam Limited shall preserve the land and would not carry out any construction over the portion of the land for which no compensation has been paid to the tenants/land owners.

6. In the earlier order of 22nd July, 2009, quoted above, leave was granted to the petitioner in the public interest litigation (respondent herein) to amend the petition which was in the nature of public interest litigation in which the relief sought was restricted to payment of compensation only.

7. In the facts and circumstances of this case, we see no justification in subsequently passing an order restraining the State Government from constructing over the land in question, particularly when the writ petition itself had been filed after a delay of 85 years and the land stood acquired as early as in 1925.

8. On consideration of the totality of the facts and circumstances of the case, we set aside the impugned order dated 20th January, 2010 by which the State Government as well as Bharat Sanchar Nigam Limited have been restrained from carrying out any construction over the land in

question and request the High Court to dispose of the writ petition as expeditiously as possible.

9. In case the claimants are entitled for any compensation, the same would be paid to them by the concerned authorities in accordance with law.

10. With the aforementioned observations and directions, these appeals are disposed of.

.....J
(DALVEER BHANDARI)

.....J
(DEEPAK VERMA)

New Delhi;
November 15, 2010.

JUDGMENT