

(2025) 12 SC CK 0034

Supreme Court

Case No: Civil Appeal No.10346 Of 2024

Bhaskar Govind Gavate (Now
Deceased) Through His Legal
Heirs

APPELLANT

Vs

State Of Maharashtra & Ors

RESPONDENT

Date of Decision: Dec. 4, 2025

Bench: Division Bench

Advocate: Sumita Ray, Disha Ray, Pravin B Bhoi, Shweta R. Rathod, Vanshika Singh, Kunal Narwal, Anurag Kumar, Rukhmini Bobde, Siddharth Dharmadhikari, Aaditya Aniruddha Pande, Shrirang B. Varma, Amlaan Kumar, Jatin Dhamija, Vinayak Aren, Deepak Nargolkar, Soumik Ghosal, G Pal, Shyamali Gadre, Gaurav Singh, Ashutosh Chaturvedi

Final Decision: Allowed

Judgement

Atul S. Chandurkar, J

1. The appellants are aggrieved by the judgment dated 26. 02.2022 passed by the High Court of Judicature at Bombay in Contempt Petition No.315 of 2003. By the said judgment, the Contempt Petition filed by the appellants has been dismissed by holding that the order of which non-compliance was alleged was capable of two interpretations and hence the Court was not inclined to initiate any action in exercise of contempt jurisdiction.

2. Since the grievance of the appellants is that there has been non-compliance of the judgment passed in proceedings initiated by them, it would be necessary to briefly refer to the said proceedings. The predecessor of the appellants, Shri Bhaskar Govind Gavate had filed Writ Petition No.3412 of 1992 seeking a writ of mandamus for completion of acquisition proceedings in respect of land bearing Gat No.78 to the extent of 12 acres 24 gunthas of Village Chinchavali, Taluka and District Thane. Various other reliefs including the relief of seeking possession were sought. Similarly placed four other petitioners had also filed separate writ petitions. On 17.01.2003, all the five writ petitions came to be disposed of by passing the following common order:-

“Coram - Shri R.M. Lodha &

Smt. Nishita Mhatre. JJ.

Dated : January 17, 2003

ORAL JUDGMENT (PER R.M. LODHA, J.):

1. In this group of Writ Petitions, at the outset, Mr. Nargolkar, learned Assistant Government Pleader, tendered an affidavit of P.D. Nikumbh, Special Land Acquisition Officer, Ulhas Valley Project, Thane. The same is taken on record. In the said affidavit, a statement has been made that Respondent Nos. 1 to 4

have no objection to hand over the possession of the land as it stands today and which is in possession of the State Government.

2. Mr. C.J. Sawant, learned Senior Counsel for Respondent No.5 submitted that the land of which possession has not been given to the State Government or for that matter Special Land Acquisition Officer for handing over to the Petitioners, which is being used for public purpose, steps have been initiated for acquisition thereof. The learned Senior Counsel also submitted that some of the land, which is not being used for public purpose and which still remains with the Corporation despite the order of this Court passed on 10.06.1967 and the judgment of the Apex Court (AIR 1977 SC 183) dated 11.10.1976, shall be immediately handed over to the Special Land Acquisition Officer for delivery of possession thereon to the Petitioners. The learned Senior Counsel also submitted that compensation shall be paid to the Petitioner for the portion of the land which continues to be in possession of the Corporation or the assignee Industries until acquisition of such land is complete and the possession of which continues with the Corporation which may be mutually agreed between the Petitioners and them or as may be determined by the competent forum.

3. Mr. Oka learned Counsel for the Petitioners in the light of the aforesaid submissions made by the learned Assistant Government Pleader and the learned Senior Counsel for Respondent No.5, prayer for withdrawal of the Writ Petitions.

4. Consequently, we dispose of this group of Writ petitions by following order:

ORDER

i) All the Writ petitions are allowed to be withdrawn.

ii) The Land Special Acquisition Officer Respondent No.4 is directed to hand over possession of the land as it stands today which is in possession of the State Government to the Petitioners immediately. We record the statement of the learned Counsel for the Petitioners that the Petitioners or their representatives will attend the Office of the Special Land Acquisition Officer on 22.01.2003. We also record the statement of the learned Assistant Government Pleader that the Special Land Acquisition Officer on that day will deliver the possession of the land which is in possession of the State Government in the position it stands today.

iii) We record that the learned Assistant Government Pleader made the statement after seeking instructions from Mr. P.D. Nikumbh, the Special Land Acquisition Officer, who is present in Court.

iv) We accept the statement of the learned Senior Counsel for Respondent No.5 that the land which is being used for public purpose and for which acquisition proceedings have been initiated, until the acquisition proceedings completed, the Petitioners shall be paid due compensation which may be mutually agreed to or as may be determined by competent forum. We also accept the statement of the learned Senior Counsel for Respondent No.5 that the piece of land which remains unutilised and not handed over back to the Special Land Acquisition Officer till date, shall be handed over to the Special Land Acquisition Officer by 20.01.2003 for further deliver the Petitioners on 22.01.2003.

v) The petitioner are at liberty to pursue Appropriate remedy for compensation from Respondent Nos.1 to 5 for the loss suffered by them, if any, by not restored their land back to them soon after the judgment of the Supreme Court in the year 1976.

vi) As regards the grievance of the Petitioners any, against Respondent No.6 or any other person having unauthorisedly illegally deprived the Petitioner from their property, the Petitioners are at liberty to pursue appropriate remedy available in law for redressal of their grievance.

5. No costs.

6. Parties may also be provided an ordinary copy of order duly authenticated by the Court Sheristadar on payment of usual copying charges."

(emphasis supplied by us).

3. According to the appellants, pursuant to the aforesaid order, they visited the office of the Special Land Acquisition Officer and sought compliance of the statements made and recorded in the aforesaid order. Since there was no compliance in that regard, the appellants preferred Contempt Petition No.315 of 2003. In paragraph 5 of the Contempt Petition, it was pleaded that land admeasuring 2 acres 15 gunthas from Gat No.78 was a pipeline and service road for the benefit of the Maharashtra Industrial Development Corporation - MIDC and for industries in the area. Though compensation for the use of the lands was paid initially for three to four years, the appellants herein had not been paid anything thereafter. The relevant averments thereafter are contained in paragraph Nos.8 to 10. The same read as under:-

"8. The Petitioner states that thereafter the Petitioner personally visited the office of Respondent No.4 several times and made inquires and requested that the possession of the land bearing Gat of No.78 be handed over to him as per the order Hon'ble High Court. However no steps or any action was taken by Respondent No.4 in respect of handing over taken possession of the said land to the Petitioner in spite of repeated requests made by the Petitioner.

9. The petitioner therefore sent Letters dated 24/02/2003 and 5/5/2003 as and by of reminder requesting that the possession of Gat No.78 be handed over to him. However no reply was given to the said notice nor any action was taken in that behalf. Hereto annexed and marked as EXHIBIT 'B' collectively is the copy of the letters dated 5.5.2003. The Petitioner states that no reply was given to the said notice nor any action was taken by Respondent No.4. The Petitioner therefore sent a notice through his Advocate dated 19.06.2003 calling upon the Respondent No.4 to deliver and handover the possession of land bearing Gat No.78 within period of fifteen days receipt of the notice. The Petitioner states that the said notice was received by Respondent No.4 on 24.6.2003. Hereto annexed and marked EXHIBIT 'C' is the copy of the acknowledgment.

10. The Petitioner state that till date the possession of the land bearing Gat No.78 situated at Chinchvali Taluka and District Thane is not being handed over to Petitioner. Here to annexed and marked as EXHIBIT 'D' is the copy of notice dated 19.6.2003. The Petitioner states that the Respondent No.4 has purposely and deliberately disobeyed the order passed by this Hon'ble Court in Writ Petition No.3412 of 1992 and hence Respondent No.4 be held guilty of having committed gross contempt of this Hon'ble Court in Writ Petition No.3412 of 1992. The Petitioner has therefore, filed the present contempt petition praying that Respondent No.4 be held guilty of having committed breach and wilful disobedience of the orders dated 17.1.2003 passed by this Hon'ble Court, in Writ Petition No.3412/1992."

4. In response to the Contempt Petition, the Special Land Acquisition Officer filed an affidavit dated 14.10.2003. In paragraph 2 of the said affidavit, he specifically stated that pursuant to the directions issued in the writ petition, possession of the lands that were with the State Government were handed over to the petitioners on 22.01.2003. He referred to the possession receipt in that regard. With regard to land situated in Gat No.78, he stated in paragraph No.3 of the affidavit that on 07.10.1970, an award came to be passed with regard to the said land under the provisions of the Land Acquisition Act, 1894 - the Act of 1894. Compensation was also paid to the erstwhile owner of the said land. Thereafter, possession of the said land was handed over to the MIDC and as recorded in the Order dated 17.01.2003, the said land was in possession of the MIDC. He, therefore, stated that he had not committed any contempt.

The petitioner in the Contempt Petition filed an affidavit in rejoinder in response to the aforesaid affidavit. He specifically stated that possession of land bearing Gat No.78 admeasuring 12 acres 22 gunthas had not been handed over to the petitioner. As regards passing of the award on 07.10.1970, it was stated that the same was not brought on record during pendency of the writ petition and that the said contention was being raised for the first time in the contempt proceedings. He denied passing of any award.

5. On behalf of the MIDC, an affidavit was filed denying the allegations of disobedience of the order dated 17.01.2003. The original petitioner filed his affidavit in rejoinder and denied similar contentions raised on behalf of MIDC.

The Collector, Thane District also filed his affidavit in reply on 02.07.2004. He reiterated the factual position as indicated by the Special Land Acquisition Officer in his affidavit and stated that possession of the lands was handed over to the original petitioner on 22.01.2003. As regards land from Gat No.78, it was stated that an award was passed on 07.10.1970 and compensation had been paid to the owners. It was stated that the said respondents had complied with all orders as passed. In paragraph No.9 of the said affidavit, it was stated that since possession of the lands in question had been handed over to the MIDC, there was no question of handing back possession of the said lands to the original petitioner.

The original petitioner filed his rejoinder to the aforesaid affidavit and reiterated that he had not received possession of the lands in terms of the order dated 17.01.2003. He further stated that a request had been made by him seeking production of the original record and proceedings from the MIDC to indicate the factual position.

6. During the course of the contempt proceedings, the respondents to the said proceedings were directed to produce the relevant records for perusal of the Court as can be seen from the order dated 08.07.2009 passed in the Contempt Petition. The relevant extract of the said order reads as under:-

"3. The learned AGP submits that copy of the award must have been preserved in the office of Additional Government Pleader (Writ Cell) and on the next date of hearing he will produce the same for perusal of the Court. In the circumstances mentioned above, office is directed to place this petition for final hearing on 24th July, 2009."

7. The Contempt Petition was thereafter heard by the Division Bench. It perused the material available on record and was of the view that there was no clear and categorical direction issued by the High Court in the order dated 17.01.2003. The statement made by the Special Land Acquisition Officer that the possession of the lands claimed by the appellants would be handed over or compensation would be paid was ambiguous and it was not clear as to whether the said statement was made with regard to the present appellants. It was therefore observed that the Court was not in a position to interpret the statement made by the Special Land Acquisition Officer or by the MIDC as sought to be canvassed. By holding that the order dated 17.01.2003 was unclear and capable of two interpretations, the High Court declined to initiate any action against the Special Land Acquisition Officer for violation of the order dated 17.01.2003. The Contempt Petition was accordingly dismissed. Hence, this appeal.

8. We have heard Mr. Shoeb Alam, learned Senior Advocate with Mr. Shreeyash Lalit, learned Advocate for the appellants, Ms. Rukhmini Bobde, learned Advocate for the State of Maharashtra and Mr. Deepak Nargolkar, learned Senior Advocate on behalf of the MIDC. We have also perused the records of the case that were summoned by this Court. Having given due consideration to all relevant aspects, in our view, the High Court was not correct in dismissing the Contempt Petition on the ground that the Order dated 17.01.2003 passed in Writ Petition No.3412 of 1992 was not clear, that no categorical direction had been issued therein or that any ambiguous statement was made by the Special Land Acquisition Officer stating that the possession of the lands claimed by the original petitioner would be handed over or compensation would be paid. The Division Bench further observed that the order dated 17.01.2003 was unclear and capable of two interpretations.

9. We may briefly indicate why the Division Bench erred in failing to entertain the Contempt Petition on merits. In Writ Petition No.3412 of 1992, the original petitioner had specifically prayed that a writ of mandamus be issued to the respondents to complete the acquisition proceedings under the Act of 1894 and to pay compensation accordingly. The original petitioner also prayed for grant of compensation from 1964 till the passing of the award. It was also prayed that possession of the lands that remained unutilized be handed over to the original petitioner. The common order dated 17.01.2003 passed in Writ Petition No.3412 of 1992 along with four other writ petitions makes it clear that the statements recorded therein related to all the petitioners. The operative part of the order indicates that the original petitioners or their representatives were to attend the office of the Special Land Acquisition Officer on 22.01.2003 and on that day possession of the lands that were with the State Government were to be handed over to them. Similarly, insofar as the MIDC was concerned, it was directed to pay compensation of an amount to be mutually agreed to all as determined by the competent forum. Unutilized land that remained with the MIDC was to be handed over to the Special Land Acquisition Officer by 20.01.2003 for being delivered to the original petitioners on 22.01.2003.

10. We have reproduced the averments made by the original petitioner in Contempt Petition No.315 of 2003 in paragraph No.3 (supra). The averments in paragraph Nos.8 to 10 therein clearly raised a grievance that the original petitioner was not handed over possession of the lands in question and that there was non-compliance of the direction issued on 17.01.2003 in Writ Petition No.3412 of 1992. The High Court ought to have considered the grievance of the original petitioner in the light of the averments made in the Contempt Petition. It was for this purpose that on 08.07.2009, the relevant record was directed to be placed before the Court for perusal since the State Government sought to contend that an award under the Act of 1894 had been passed. The impugned order, however, does not indicate consideration of this aspect. The Division Bench was of the view that the statement recorded in the order dated 17.01.2003 did not indicate whether the same pertained to the original petitioner in Writ Petition No.3412 of 1992 or to other writ petitioners. When the original petitioner had made a specific grievance as regards non-compliance of the direction issued on 17.01.2003, the Division Bench ought to have examined such grievance in the light of the material placed before it. Absence of any grievance by other landowners would not imply that the directions issued in favour of the original petitioner either stood complied with or were inconsequential. The common order dated 17.01.2003 has to be read as a whole and when it is so read, it is clear that there is a clear and categorical direction issued by the Division Bench on 17.01.2003 in the matter of attending the office of the Special Land Acquisition Officer on 22.01.2003 and delivering possession of the lands that were in possession of the State Government on

that day. The Division Bench ought to have examined the matter from this perspective. Having failed to do so, Contempt Petition No.315 of 2003 preferred by the original petitioner deserves to be reconsidered by the High Court especially in the light of the statement made and recorded by the Division Bench in the order dated 17.01.2003 passed in Writ Petition No.3412 of 1992. Since the proceedings are being remanded for a fresh consideration, we have declined to enter into the merits of the rival submissions that were made before us. For the record, we may state that the award dated 07.10.1970 was not produced before this Court by the respondents.

11. For the aforesaid reasons, the judgment dated 26. 02.2022 passed in Contempt Petition No.315 of 2003 is set aside. The proceedings in Contempt Petition No.315 of 2003 are restored before the High Court for being considered afresh in the light of the observations made hereinabove. It is, however, clarified that we have not expressed any opinion on the merits of the rival submissions and that the same can be raised before the High Court for its consideration. The Civil Appeal is allowed and disposed of in the aforesaid terms.