



Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3801 OF 2019

Anna Tatoba Borgave and Others ...Petitioners

Versus

The State of Maharashtra and Others ...Respondents

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Mr Umesh H. Pawar with Sagar R. Sonawane, for Petitioner.

Mr Aditya R. Deolekar, AGP for State/Respondent Nos. 1
and 3.

Mr Vikram N. Walawalkar i/b Mr Amey C.Sawant, for
Respondent Nos. 4 and 5, Sangli Miraj and Kupwad
Cities Corporation.

**CORAM: M.S. Sonak &
Jitendra Jain, JJ.**

DATED: 14 February 2025

PC:- (Per M.S. Sonak J.)

1. Heard learned Counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request and with the consent of the learned Counsel for the parties.
3. The Petitioners claim to the persons interested in respect of the property being S.N No.198/3 admeasuring 5 Acres and 8 Guntha situated at Kupwad Taluka Miraj, District Sangli, Maharashtra. ('the said property'). The fifth Respondent prepared a development plan in terms of Section 26 of the MRTP Act, 1966, concerning the fourth Respondent-

Corporation today represented by Mr. Walawalkar. Certain reservations were proposed on the above-referred property.

4. On 14 May 2009, the Petitioners executed a Kabjepatti regarding the DP roads in favour of the fourth Respondent, the Corporation, subject to compensation payment. Since then, the Petitioners have been pursuing the matter along with the Bank and apportionment details.

5. The Petitioners made representations followed by legal notices, and since there was no response, the Petitioners instituted the present Petition seeking directions to the Respondents to initiate and complete the acquisition proceedings and pay compensation in accordance with law to the Petitioners.

6. On 1 January 2021, Respondents Nos. 4 and 5 filed affidavits in which they referred to the payment of advance compensation of Rs.1 Lakh and the consent affidavits tendered by some of the family members of the Petitioners. The Petitioners countered all these allegations by their rejoinder dated 7 April 2021.

7. On 7 December 2022 we directed the Respondent-Corporation to produce any documents regards the acquisition proceedings or at least to produce an agreement regarding of the acquisition of the Petitioners' properties. On 1 February 2023, affidavits were filed on behalf of Respondent Nos. 4 and 5, in which they admitted that the amount of Rs.1 Lakh was paid “temporarily” as the final amount of compensation was to be decided by the valuation development of the State of

Maharashtra. His affidavit also stated that upon receipt of the valuation report, the Corporation would pay that compensation amount to the Petitioners.

8. After that, some time was spent on this matter by impleading parties. On 2 May 2023, we directed the Corporation to place on record the valuation report. On 9 January 2025, we requested the AGP to obtain instructions about the timeline within which acquisition would be concluded by passing the Award. On 14 January 2025, we requested the Counsel for the Corporation to precisely state the amount of compensation, which, according to the Corporation, was payable to the Petitioners, and the timeline within which such compensation would be paid.

9. On 17 January 2025 after hearing the learned Counsel for the parties we made the following order:

1. Heard learned counsel for the parties.
2. Based on our order dated 09 January 2025, Mr. Walawalkar, the learned counsel for the Respondent Nos. 4 and 5 – Sangali Miraj Kupwad Municipal Corporation, on instructions, has submitted that the Corporation's valuation indicates that a sum of approximately Rs. 66,59,440/- would become payable to the Petitioners for the land of which possession is already taken in the year 2009.
3. Mr. Walawalkar, based on written instructions, submits that now there are the following two options :-
 - (a) The Petitioners and the Corporation can negotiate and arrive at a mutually agreed compensation figure. Based on this, the acquisition can conclude expeditiously. The compensation can be paid to the Petitioners within a reasonable period and the Corporation can also perfect its title;
 - (b) If negotiation fails, then, the Corporation will submit a proposal to the Collector for acquisition of the Petitioners' property under the provisions of the Right to

Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (“the said Act”). Some time bound directions would be given in this regard.

4. Mr. Umesh Pawar, the learned counsel for the Petitioners, based on instructions from the Petitioners, states that the Petitioners are willing to negotiate and see if some settlement on the issue of compensation is possible.

5. Accordingly, the Petitioners are directed to remain present in the office of the Municipal Commissioner on 23 January 2025 at 11.00 am. The Municipal Commissioner and the Petitioners must explore the possibility of arriving at a settlement on the compensation amount.

6. We post this matter on 14 February 2025 for directions/disposal.”

10. Mr. Walawalkar, the learned Counsel for the Corporation submits that an offer was given to the Petitioners for payment of Rs. 62,17,280/- after adjusting the ad-hoc compensation of Rs.1 Lakh paid to the Petitioners. However, on instructions from the Petitioners, the learned Counsel for the Petitioner states that this offer is unacceptable. Learned Counsel for the Petitioners points out that even the Ready Reckoner rates are almost four times the rate at which the compensation is offered.

11. Thus, since the negotiations have failed, there is no option but to issue directions to the Corporation and the State Government to initiate and conclude the acquisition proceedings as expeditiously as possible. However, considering the earlier affidavits filed on behalf of the Corporation and even otherwise, since there is no serious dispute that the possession of the Petitioners’ property was

taken over in May 2009, the interest of justice would be made if the amount of Rs.62,17,280/- is paid by the Corporation to the Petitioners, again as an additional ad-hoc compensation until the final compensation amount and all other statutory entitlements are determined following the law in the acquisition proceedings.

12. We therefore direct that this amount of Rs.62,17,280/- must be paid by the Corporation, i.e., the Sangli Miraj and Kupwad City Corporation, to the Petitioners within two weeks from the Petitioners furnishing in writing to the Corporation, the chart of apportionment and the Bank details in which such amount should be deposited. The Petitioners will also have to provide an indemnity cum undertaking to the Corporation that apart from them, there are no other persons interested in this compensation, and should any other persons raise compensation claims, it would be the Petitioners responsibility to settle such claims.

13. Learned Counsel for the Petitioners states that the Petitioners would accept this ad-hoc compensation without prejudice to their rights and contentions to receive fair compensation in terms of the Law and other statutory benefits.

14. Mr. Walawalkar, the learned Counsel for the Corporation stated that the Corporation would submit it proposal for acquisition to Collector Sangli within six months from today. However, now that so much time has elapsed, we think and direct that the Corporation should submit such a proposal to

the Collector within three months from today. The proposal should be complete and accompanied by any amounts that must be deposited to process such a proposal. The Corporation can, however, point out to the Collector that it has already paid ad-hoc compensation of Rs.63,17,280/- to the Petitioners, and the Collector must then offer appropriate adjustment for this amount.

15. Upon receipt of such a proposal, the Collector or any other appropriate or competent authority must initiate and conclude the acquisition proceedings within one year. The Land Acquisition Authorities must appreciate that possession of the Petitioners' property was taken over in 2009, and to date, the Petitioners have not received compensation for such an acquisition.

16. The Land Acquisition Authorities must also appreciate that though property rights may not be fundamental, they are constitutional rights under Article 300A, and the Hon'ble Supreme Court has declared that they are also human rights. Therefore, the acquisition proceedings must be initiated and concluded with utmost dispatch.

17. The Land Acquisition Authorities must also take cognisance of the latest decision of the Hon'ble Supreme Court in the case of **Kolkata Municipal Corporation and Another Vs. Bimal Kumar Shah and Others in Civil Appeal No.6466 of 2024 arising out of SLP (C) No.4504 of 2021, decided on 16 May 2024.** In this decision, the Hon'ble

Supreme Court has listed seven sub-rights in the context of compulsory acquisition of citizens' property as follows:

“i) duty of the State to inform the person that it intends to acquire his property – the right to notice, ii) the duty of the State to hear objections to the acquisition – the right to be heard, iii) the duty of the State to inform the person of its decision to acquire – the right to a reasoned decision, iv) the duty of the State to demonstrate that the acquisition is for public purpose – the duty to acquire only for public purpose, v) the duty of the State to restitute and rehabilitate – the right of restitution or fair compensation, vi) the duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings – the right to an efficient and expeditious process, and vii) final conclusion of the proceedings leading to vesting – the right of conclusion.”

18. The Hon'ble Supreme Court has held that the above seven rights are the foundational components of a law that is in tune with Article 300A, and the absence of one of these and some of them would render the law susceptible to challenge. One of the principles is the duty of the State to restitute and rehabilitate or pay fair compensation, and other sub-rights correspond to the duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings, i.e. right to an efficient and expeditious process.

19. At least in this matter, no fair compensation was paid to the Petitioners, and this acquisition process has lingered on for the last 15 years. We think the State and the Corporation have not adhered to these principles concerning the compulsory acquisition of the Petitioners' property.

20. Therefore, we have directed the Corporation to pay the above amounts on an ad hoc basis, which, according to the Corporation, were payable to the Petitioners as soon as possible. We have also directed the Corporation and the Land Acquisition Authorities to expedite the acquisition process and conclude it within the timelines we have now indicated.

21. The Rule is accordingly made absolute in the above terms without any cost order.

22. All concerned are to act on an authenticated copy of this order.

23. Conclude the proceedings which would include payment of the necessary compensation amounts to the Petitioners.

(Jitendra Jain, J)

(M.S. Sonak, J)