

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 2473 OF 2013
WITH CA/8535/2014 IN WP/2473/2013

NITIN SUBHASH BAVISKAR
VERSUS
THE STATE OF MAH AND ORS

...
Advocate for Petitioner : Mr. Shailesh P. Brahme
AGP for respondent Nos. 1 to 3 : Mr. N.B. Patil,
Advocate for respondent No.4 : Mr. D.S. Bagul

CORAM : MOHIT S. SHAH, C.J.
& RAVINDRA V. GHUGE, J.

DATE : 24TH MARCH, 2015.

PER COURT:

1] Heard.

2] By this petition under Article 226 of the Constitution of India, the petitioner has prayed for a direction to respondents to permit the petitioner to develop the land in question as per the Government Resolution dated 7th April, 1994. The petitioner has further prayed for a direction to the respondents and particularly, to the respondent No.4 - Shirpur - Varwade Municipal Council, Shirpur to decide the petitioner's representation dated 11th June, 2012.

3] The petitioner claims to be the owner of land admeasuring about 0.52 Hectare (5590 Square Meters) out of Survey No. 21 + 22 + 23 + part of 24, situated at village Varwade. In the sanctioned development plan of Shirpur-Varwade, the said land is reserved as Site No.6 - "Shopping Center and Vegetable Market".

4] In view of the said reservation, the respondent No.4 Shirpur-Varwade Municipal Council, sent a proposal dated 25th October, 2011 to the State Government, for acquisition of the land as the Municipal Council is desirous of constructing a Shopping Center and Vegetable Market on the above land reserved for the said purpose. It appears that the Municipal Council has, till now, not received any response to the said proposal, although the Municipal Council has also deposited an amount of Rs. 11,88,035/-.

5] The petitioner, owner of the land has moved the present petition, contending that the petitioner is entitled to develop the land as per the Government Resolution dated 7th April, 1994 and further states that the petitioner has also sent a representation dated 11th June, 2012 to respondent No.4 - Municipal Council, for permitting the petitioner to develop the land for constructing a Shopping Center and Vegetable Market as per the reservation in the development plan. It appears that the Municipal Council has not taken any final decision on the said representation.

6] Learned counsel for the respondent No.4 - Municipal Council states that in view of the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the respondent No.4 - Municipal Council, proposes to send another proposal to the State Government for acquisition of the land in question under the new legislation.

7] Learned counsel for the petitioner submits that the Municipal Council may also take a decision on petitioner's representation dated 11th June, 2012.

8] Having heard the learned counsel for the parties, without expressing any opinion on the issues sought to be raised in the petition, we are of the view that the interest of justice would be served if this writ petition is disposed of with a direction to respondent No.4 - Shirpur Varwade Municipal Council, to consider and decide the petitioner's representation dated 11th June, 2012 before sending the proposal to the State Government for acquisition of the land in question under the new legislation for the purpose of enabling the Municipal Council to construct a Shopping Center and Vegetable Market.

9] The Municipal Council shall take decision as expeditiously as possible and preferably within 3 months from the date of receipt of this order.

10] Petition accordingly stands disposed of. Since the writ petition is disposed of, Civil Application No. 8535 of 2014 does not survive and is disposed of accordingly.

[RAVINDRA V. GHUGE,J.]

CHIEF JUSTICE

grt/-