

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4377 OF 2012

Jagdish Kaluram Vyas	...	Petitioner
vs.		
The State of Maharashtra, through Secretary, Urban Land Development Department & Ors.	...	Respondents

Mr. Ajay A. Joshi, Advocate for the petitioner.
Mrs. Sushma Bhende, AGP for respondent nos. 1 to 3.

**CORAM : SMT. VASANTI A. NAIK &
C.V. BHADANG, JJ.**
DATE : 8th January, 2015.

P.C.

By this Petition, the petitioner seeks direction to the respondent nos. 2 and 3 to pay an amount of Rs.32,03,800/- along with interest towards compensation for the acquired land.

According to the petitioner, the owners of the land, i.e., the respondent nos. 4 to 7 agreed to sell the land in question in favour of the petitioner by an Agreement of Sale dated 20th January, 2007. The Competent Authority issued notice under section 32 of the Maharashtra Industrial Development Act, 1961 on 20th February, 2007 expressing its intention to acquire the said land. The petitioner has filed Special Civil Suit No. 116 of 2009 for seeking specific performance of contract. In the meanwhile, the respondent nos. 2 and 3-The Special Land Acquisition

Officer and the Collector released the compensation for the acquired lands in favour of the respondent nos. 4 to 7. When the petitioner made a grievance against the same before the Special Land Acquisition Officer and the Collector, the respondent no. 2 informed the petitioner that notices have been issued to the respondent nos. 4 to 7 to seek the recovery of the amount of compensation from them. According to the petitioner, it was necessary for the respondent nos. 2 and 3 to refer the dispute to the Civil Court under section 34 of the M.I.D.C. Act r/w. section 30 of the Land Acquisition Act, 1894.

The learned counsel for the petitioner has relied on the judgment reported in **AIR 1972 Bom. 217** (*Mohammad Akil Khan vs. Premraj Jawanmal Surana & Anr.*) to seek a reference of the matter to the Civil Court.

It appears on hearing the learned counsel for the petitioner and the learned Assistant Government Pleader for the respondent nos. 1 to 3 that it was necessary for the respondent nos. 2 and 3 to make a reference of the dispute between the petitioner and the respondent nos. 4 to 7 to the Civil Court. There is a serious dispute between the respondent nos. 4 to 7 on one part and the petitioner on the other, in regard to the right of the respective parties to claim compensation towards the acquired land. The suit filed by the petitioner for specific performance of contract is still

pending. In the facts of the case, it was necessary for the respondent nos. 2 and 3 to refer the dispute between the rival parties to the Civil Court. It would be necessary to refer to the judgment reported in **AIR 1972 Bom. 217** and relied on by the counsel for the petitioner in this regard.

Hence, for the reasons aforesaid, the Writ Petition is partly allowed. The respondent nos. 2 and 3 are directed to make a reference of the dispute between the petitioner and the respondent nos. 4 to 7 to the Civil Court under section 34 of the M.I.D.C. Act or Section 30 of the Land Acquisition Act, 1894 within a period of three months.

Order accordingly, with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)