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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO.6595 OF 2006**

|                                   |                 |
|-----------------------------------|-----------------|
| Mohan Pandurang Kalate and Ors.   | ... Petitioners |
| Versus                            |                 |
| The State of Maharashtra and Ors. | ... Respondents |

Mr. A.V. Anturkar, Senior Counsel a/w Mr. Sandeep S. Salunkhe, for the Petitioners.

Mr. V.S. Gokhale, AGP, for the Respondent Nos.1, 4 and 5.

Mr. A.A. Kumbhakoni, Senior Counsel i/by Mr. Deepak R. More, for Respondent Nos.2 and 3.

**CORAM : A.S. OKA &  
REVATI MOHITE DERE, JJ.**

**DATE : 7<sup>th</sup> JULY, 2015**

**PC.**

. Heard the learned Senior Counsel appearing for the Petitioners, the learned Senior Counsel appearing for the second and third Respondents and the learned AGP for first, fourth and fifth Respondents. In substance, the challenge is to the acquisition proceedings initiated by the second Respondent – Municipal Corporation. Our attention is invited to the orders passed in this Petition from time to time. During the course of final hearing of this Petition on 6<sup>th</sup> May, 2015, the learned Senior Counsel representing the second Respondent – Municipal Corporation placed on record a letter dated 5<sup>th</sup> May, 2015 addressed by the third Respondent (Commissioner

of the second Respondent – Municipal Corporation) to the learned Senior Counsel representing the said Municipal Corporation. In the said order, the statement of the learned Senior Counsel representing the second Respondent – Municipal Corporation was recorded that the Municipal Corporation is agreeable, in principle, to initiate acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the said Act of 2013”). It was also pointed out to this Court that one proposal submitted by the Municipal Corporation for initiating acquisition proceedings under the said Act of 2013 was returned by the District Collector to the Municipal Corporation on the ground that Rules have not been framed under the said Act of 2013.

2. The order dated 23<sup>rd</sup> June, 2015 records a statement of the learned counsel appearing for the Petitioners that the Petitioners have no objection if the land in question is acquired at the instance of the second Respondent – Municipal Corporation under the said Act of 2013.

3. Earlier, when the Petition is called out, the learned Senior Counsel appearing for the Petitioners, on instructions, stated that if an amount equivalent to 80% of the Ready Reckoner value of the land in question is paid to the Petitioners by way of interim compensation, they are willing to hand over possession of the land subject matter of the

proposed acquisition to the second Respondent – Municipal Corporation for the purposes of road widening. His submission is that acquisition proceedings may be ordered to be initiated and completed within a time bound manner.

4. In terms of what transpired in the Court, minutes of order have been prepared and tendered on record which are marked 'X' for identification. The learned counsel appearing for the Petitioners have no objection for disposing of the Petition in terms of the minutes of order tendered and marked 'X' for identification.

5. From the controversy arising in the Petition, it appears to us that the acquisition is necessary for the purposes of completing project of road widening. As stated earlier, on 6<sup>th</sup> May, 2015, a statement has been made on behalf of second and third Respondents that the second Respondent is in principle agreeable to acquire the land in question by invoking the provisions of the said Act of 2013. It is also pointed out that in view of the interim order passed in this Petition, out of a stretch of road having length of 8 kilometers, the work has remained to be carried out only in respect of length of 270 meters. The letter dated 5<sup>th</sup> May, 2015 of the Municipal Commissioner which is placed on record and marked 'X1' for identification records that the said project is being implemented on the basis of the financial assistance

granted by the World Bank and is part of BRTS. It is pointed out that the project is also financed by JNNURM. It is also stated that enquiries are being made by the World Bank as regards the delay in completion of the project.

6. In view of the aforesaid factual position, the stand taken by the second Respondent is reasonable. Considering the fact that Rules have not been framed under the said Act of 2013, it may take time for the State Government to invoke urgency clause under the said Act of 2013. Therefore, an arrangement proposed is that Ready Reckoner price of the land described in paragraph 2 of the minutes of order should be determined by the Collector and the Municipal Corporation should deposit 80% of the said price with the Collector which can be withdrawn by the Petitioners. The Petitioners have shown willingness to hand over vacant and peaceful possession of the lands described in paragraph 2 of the minutes of order on receipt of the aforesaid amount equivalent to 80% of the amount.

7. Therefore, the Petition deserves to be disposed of in terms of the minutes of order marked 'X' for identification. Accordingly, the Petition is disposed of in terms of minutes of order tendered on record and marked 'X' for identification.

8. As soon as the amount is deposited by the second Respondent – Corporation in terms of clause (g) of paragraph 3 of the minutes of order, the Collector shall permit the Petitioners to withdraw the said amount. It is obvious that payment of the said amount will be subject to final determination of compensation payable to the Petitioners in accordance with the said Act of 2013. Undertakings of the Petitioners in the minutes of order are accepted.

9. On an intimation in writing being given by the second Respondent – Municipal Corporation to the Petitioners of the deposit of 80% of the amount as aforesaid with the Collector, within a period of two weeks from the receipt of intimation, the Petitioners shall hand over the possession of the lands described in paragraph 2 of the minutes of order with the second Respondent – Municipal Corporation.

10. In the event, the possession is not handed over by the Petitioners within the time stipulated above, it will be open for the second Respondent to move this Court for grant of appropriate relief.

11. Rule is accordingly made absolute on above terms.

( REVATI MOHITE DERE, J )

(A.S. OKA, J )