

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8140 OF 2014

Dr.Ramdas P. Sabban for the Petitioner
Mr.V.S.Gokhale, AGP for the respondent Nos.1 to 4.
Mr.Samir Kumbhakoni for respondent Nos.5 and 6.

P.C.:

2 The petitioner in this petition under Article
226 of the Constitution of India contends that he is
the owner of the land subject matter of reservation
in the sanctioned development plan of the respondent
No.5-Solapur Municipal Corporation. The details of
the reservation have been set out in the paragraph 2
of the petition. The first reservation is for
primary school and the second one is for parking.
As far as the reservation for primary school is
concerned, a resolution was passed by the General

Body of the Solapur Municipal Corporation on 18th June 2007 recommending cancellation of the reservation.

3 On 8th October 2010 two separate purchase notices under sub-section 1 of section 49 of the Maharashtra Regional and Town Planning Act, 1966 (for short 'the MRTP Act') were served to the State Government by the Advocate for the petitioner. The first notice was as regards the reservation for primary school and the second one was for the reservation for parking. On 12th and 13th July 2011 respectively, the State Government issued a communication to the Commissioner of the respondent No.5 informing the Commissioner that the purchase Notices have been confirmed. Therefore, the Municipal Commissioner was called upon to initiate acquisition proceedings in respect of the land subject matter of the purchase notices. It appears that within the stipulated period of twelve months provided under sub-section 7 of section 49 of the MRTP Act on 16th September 2011, an application for acquisition of the land was made by the respondent Nos.5 and 6. Therefore, the reservation did not lapse. The orders dated 2nd November 2011 and 25th January 2012 were passed by the District Collector on the basis of the said proposals/applications submitted by the respondent No.6 on 16th September 2011 and 3rd October 2011 directing that Special Land Acquisition Officer, Solapur to take steps for acquisition after taking 2/3rd of the estimated compensation amount from the respondent No.5-

Corporation. A direction was issued thereafter to issue a notification under the Land Acquisition Act, 1894.

4 In the year 2013, the petitioner applied for development permission which was rejected on the ground of reservation. An appeal was preferred by the petitioner against the said order which has been dismissed by the Appellate Authority on 7th July 2014.

5 The first application for acquisition was made by the respondent Nos. 5 and 6 within the time stipulated under sub-section 7 of section 49 of the MRTP Act claiming that the reservation has not lapsed. Hence, a writ of mandamus is sought directing the respondents to complete the acquisition proceedings. Writ of mandamus is also sought seeking a direction against the respondent Nos. 5 and 6 to deposit necessary amount to enable the respondent No. 3 to issue a notification under the said Act of 1894.

6 As stated earlier, there is no reply filed by the respondent Nos. 5 and 6. In any case, it is apparent from the orders of the District Collector dated 2nd November 2011 and 8th February 2012 (Exhibit D to the petition) that on the basis of the application made by the respondent Nos. 5 and 6, the Collector was directed to initiate acquisition proceedings. Under the said order, the respondent No. 5 was called upon to deposit 2/3rd of the

estimated compensation.

7 As the acquisition has been initiated at the instance of the respondent Nos.5 and 6, the same will have to be taken to its logical end. Therefore, we propose to direct the respondent No.5 to deposit requisite amount within the specified time. We also propose to direct the respondent No.3 to complete the acquisition proceedings in a time bound schedule.

8 Accordingly, we pass the following order:

- (I) We direct the respondent No.5-Municipal Corporation to deposit requisite amount as per the orders dated 2nd November 2011 and 25th January 2012/8th February 2012 (Exhibit D to the petition) within a period of three months from today;
- (II) If the amount is deposited within a period of three months from today, steps shall be taken by the respondent No.3 to commence acquisition proceedings as expeditiously as possible. In any event, the proceedings shall be concluded within a period of one year from the date on which requisite amount is deposited by the respondent No.5;
- (III) Needless to add that the acquisition proceedings shall be completed by a declaration of an Award by offering compensation, if any, payable to the petitioner within the aforesaid period of one year;

- (IV) In the event, the respondent No.5 fails to deposit the requisite amount within the time specified or in the event after deposit of the amount as specified, the acquisition proceedings are not completed within the stipulated time, we grant liberty to the petitioner to move this Court by filing appropriate application;
- (V) We make it clear that we have made no adjudication on the issue of entitlement of the petitioner to receive compensation;
- (VI) Writ Petition is disposed of on above terms;
- (VII) All concerned to act upon an authenticated copy of this order.

(K.R.SHRIRAM,J.)

(A.S.OKA,J.)