

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3219 OF 2016

Vijaykumar S/o Nilkanthrao Salunke

Petitioner

Versus

The State of Maharashtra and others

Respondents

Mr.S.T. Shelke advocate for the petitioner

Mr.V.M. Kagne, AGP for Respondent State

Mr. A.S. Bajaj advocate for respondent No.2 and 3.

CORAM : R.M. BORDE &
K.K. SONAWANE, JJ

(Date : 26th October, 2016.)

PER COURT :-

1 The grievance raised in the petition is in respect of allotment of land to the extent of 12.5% of the acquired area in accordance with the Policy framed by the Government and Cidco.

2 The piece of land purchased in the capacity of Chief Promoter of Shubhamangal Cooperative Society to the extent of 4050 square meters out of Gut No.15 of village Garkheda, Aurangabad has been acquired by Cidco and compensatioin has been determined in terms of the final Award dated 23.12.1996. However, as a pre-condition for handing over the possession of 12.5% developed area in accordance with Policy, the Cidco is

insisting for production of registration certificate of the society and disclosure of names of the members of the society. The insistence of the Cidco is in view of the observations made by the Division Bench of this Court while disposing of Writ Petition No.3982 of 1999 on 11.3.2014. In paragraph No.18 of the order, the High Court has directed the respondent Cidco to allot 12.5% of the acquired land to the petitioner in the name as appearing in the Award dated 23.12.1996.

3 It is noticed that the Award declared on 23.12.1996 refers to the name of the proposed Society through its Chief Promoter. In view of the directions issued in the Judgment referred to above, Cidco is insisting upon production of registration certificate of the society and the list of the members. As the Society could not be registered after 1999 onwards till this date, because of various reasons which need not be a matter of consideration in the instant petition, the petitioner is unable to produce the registration documents of the society. As a consequence of failure of the Chief Promoter to get the society registered, there arises no question of enlistment of Members of the Society. It is not a matter of dispute that the piece of land which has been acquired by Cidco is purchased by the Chief Promoter in the name of the proposed society.

4 In these peculiar circumstances, it would meet ends of justice if CIDCO is directed to allot 12.5% land as per the Policy in favour of the Chief Promoter of the society in his individual name. In order to safeguard interest of the Cidco and to avoid further litigation, the petitioner shall file an indemnity bond duly motorized, with Cidco, undertaking to indemnify the Cidco in the event of occurrence of any litigation or raising of any claim by any individual in respect of disputed property. The petitioner has already put on record of this petition, an undertaking, marked 'X' for identification. The petitioner has also placed on record a certificate issued by the Deputy Registrar of Cooperative Societies, Taluka Aurangabad dated 2.1.2016, informing therein that no society under the name and tile ' Shubhmangal Sahakari Gruhanirman Sanstha ' has been registered till this date.

5 In view of above, subject to tendering of indemnity bond as referred to above, the respondent Cidco shall execute lease deed in favour of the petitioner, without insisting for registration certificate of the society and list of the members. The learned counsel appearing for Cidco, on instructions informs that, pursuant to the directions issued by this Court in Writ Petition No.3982/99, two plots have already been reserved for allotment in favour of the petitioner and as such it would be appropriate to

direct Cidco to execute lease deed in respect of those plots which have already been reserved and it is accordingly directed.

6 In view of above, the writ petition stands disposed of.

(K.K. SONAWANE, J)

(R.M.BORDE, J)

vbd