FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.12237 OF 2015

Grampanchayat, Latur Road, Tq. Chakur, Dist.Latur, through its Sarpanch, Madhukar S/o Pandharinath Munde Vs. The State of Maharashtra and others

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr.S.S.Thombre, advocate for the petitioner.
Mr.B.V.Virdhe, A.G.P. for the State.
Mr.S.S.Manale, advocate for Respondent Nos.2 and 3.

CORAM : S.V.GANGAPURWALA AND K.L.WADANE,JJ.
Date : 06.10.2016.

PER COURT :

1. Heard.

2. Mr.Thombre, learned counsel for the petitioner submits that the petitioner is a Grampanchayat. The Grampanchayat possesses property in Gat No.17, S.No.20. On some part of the said property Grampanchayat office is also situated. The name of the Grampanchayat is also entered in Namuna No.8. The Grampanchayat passed a Resolution to construct shopping complex on the said area under District Rural Development Scheme. The proposal was also submitted to the Zilla Parishad. The Zilla Parishad accepted the proposal and the Zilla Parishad was to

disburse the loan in three instalments. The total amount sanctioned was Rs.20,00,000/- (Rupees twenty lacs). After sanctioning the proposal by the Zilla Parishad, the Grampanchayat issued tender. E-tender of one M/s R.S.Akkanouro was accepted. The work order was issued to him on 27.8.2015. The Zilla Parishad issued cheque of the first instalment of Rs.7,00,000/- (Rupees seven lacs) on 9.11.2015. When the said cheque was presented, it was returned back with endorsement that the payment is stopped by the drawer. On making queries it was said that there is a dispute pending in the Civil Court and statusquo is granted. Upon making inquiry, it transpired that the property involved in the Civil suit is different than the one on which the construction is proposed. As the amount was not being disbursed, the present petition is filed. Mr.Thombre, learned counsel further submits that the property was acquired by the Government under an award in the year 1956 for the purpose of extension of Gaothan of the said village i.e. 50 Acres 34 Ares. When the said property was acquired for the purpose of extension of Gaothan, it is the Grampanchayat which will have every right to develop the said property. Only because amount is paid by the then erstwhile Board (now Zilla Parishad), the same would not give Zilla Parishad a right of ownership, at the most the Zilla Parishad may recover the amount paid by it from the Government. Mere entry of the name in the 7/12 extract would not give ownership right to the

Zilla Parishad. The learned relies on the various communications made earlier.

3. Mr.Manale, learned counsel for the Zilla Parishad states that the affidavit filed by the Collector is contrary to the record. Even the communications made in the year 1956 would show that the property acquired vest with the Zilla Parishad and also states that under the Act i.e. Maharashtra Zilla Parishads and Panchayat Samitis Act, more particularly, clause 112 of the Schedule, it is the Zilla Parishad who would do the work of improvement and extension of village sites including grants of loan for the purpose. The Divisional Commissioner has rightly considered the aspect.

4. We have heard learned A.G.P. also.

5. Upon going through the pleadings and the documents, it appears that the Collector and the Commissioner have taken contradictory stands. The award on record states that the land is acquired for extension of Gauthan. The amount is paid by the erstwhile Board presently Zilla Parishad. The purpose for acquisition is extension of Gauthan. The office of the Zilla Parishad is in part of the area that was acquired and existing since long. Now the Grampanchayat desires to develop an area of 20,000 Sq. fts. for which initially even loan was sanctioned by the Zilla Parishad and the disbursement was also sought to be made by issuing cheque of the first instalment but the payment of the same

was stopped on the ground of dispute of litigation. The loan is already agreed to be given by the Zilla Parishad and the same can be done even as per Schedule relied by the learned counsel for the Zilla Parishad.

6. The Divisional Commissioner is a superior authority to both the parties i.e. the Grampanchayat and the Zilla Parishad. In fact both are local self-Government, wherein litigation amongst themselves is required to be avoided. The Apex Court has time and again said that one arm of the Government should not litigate against its other arm.

7. Considering the above, it would be in fitness of things if the Divisional Commissioner resolve the said dispute as to whether the Grampanchayat should be allowed to develop the same as the process was already undertaken and even Zilla Parishad sanctioned loan to the Grampanchayat to develop the said plot. The Grampanchayat and the Zilla Parishad should approach the Divisional Commissioner in this regard on 20.10.2016. The Divisional Commissioner may hear both the parties and/or call for the relevant documents on which the respective parties rely and take decision about whether to allow the Grampanchayat to develop the said part of the property expeditiously, preferably within two (2) months from the date of their appearance. Needless to state any party aggrieved by the decision of the Divisional

Commissioner has the avenue open for redressal of their grievance.

8. The Writ Petition is disposed of. No costs.

(K.L.WADANE,J.) **(S.V.GANGAPURWALA,J.)**

Dt.06.10.2016.
asp/office/wp12237.15