

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4758 OF 2016**

Dnyaneshwar Rajaram Vitole and anr.Petitioners
versus

The State of Maharashtra through the
Secretary, Urban Development Department,
Mantralaya, Mumbai and ors. ...Respondents

Mr. Amit B. Borkar, advocate for the petitioners.
Mr. C. P. Yadav, AGP for respondent Nos. 1 and 2.
Mr. Deepak R. More, advocate for respondent No.3.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATE : 6th OCTOBER, 2016.

P. C. :

Heard learned counsel and learned AGP appearing for the respective parties.

2. Mr. Borkar, learned counsel for the petitioners submits that though the land admeasuring 663 square meters out of Survey No.83/1 at Mouje Wakad, Taluka Mulshi, District Pune, belonging to the petitioners is already acquired by respondent – Corporation, respondent Nos. 2 and 3 have marked area of 2000 out of the said survey number as same is affected by proposed road sanctioned by notification dated 9th July, 2008. He submitted that without there being acquisition, the area excess of 663 square meters cannot be taken possession of by the respondent – Corporation. He further submitted that without resorting to the proceedings of acquisition, respondent

Nos. 2 and 3 are trying to take possession of remaining land admeasuring about 1350 square meters.

3. Mr. More, learned counsel for the Corporation, on instructions, stated that the map relied upon by the petitioners defers from the map relied upon by the respondent – Corporation. He submitted that the survey number and land under acquisition be directed to be measured by DILR and, in case, any additional area is found to be affected by the DP road, the same will be acquired in accordance with law. Mr. Borkar, learned counsel for the petitioners, has no objection if this exercise is carried out.

4. In the above circumstances, we dispose of the petition by passing the following order:

1. The petitioners shall approach the DILR- Pune with an application for measuring the subject land viz. survey No.83/1 at Mouje Wakad, Taluka Mulshi, District Pune, along with marking of the DP Road.
2. In the event, such an application is preferred by the petitioners within two weeks from today, the DILR – Pune or any other officer authorized on his behalf, shall carry out the measurement of the subject land and marking of the DP Road within a period of four weeks thereafter.
3. The petitioners and the authorized representative of the Corporation shall remain present at the subject survey number at the time of measurement.

4. In the event, it is found that the land belonging to the petitioners in excess of 663 square meters out of the subject survey number is affected by the DP Road, then, the Corporation shall acquire the additional land and pay compensation to the petitioners in accordance with law.

5. Mr. Borkar, learned counsel for the petitioners, at this stage stated that respondent Nos. 2 and 3 have also not paid compensation to the petitioners for the area admeasuring 663 square meters which is already acquired. Mr. More learned counsel for the Corporation and learned AGP do not dispute their liability to pay compensation to the petitioners in respect of the area already acquired and they stated that the amount of compensation for the said area would be paid over to the petitioners within a period of four weeks from the date of receipt of this order. The statement is accepted.

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

(ANUJA PRABHUDESSAI, J.)

[RANJIT MORE, J.]