

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4511 OF 2015.

Arif Hussain Fida Hussain Ajani..vs..State of Mah. and ors.

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

Court's or Judge's orders

Mr.A.S.Dhore, Advocate for the petitioner.
Mr.N.S.Rao, AGP for respondent nos.1 to 3.
Mr.A.D.Sonak, Advocate for respondent no.4.

**CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.
DATED : MARCH 31, 2016.**

Heard for sometime.

Effort of petitioner is to demonstrate that though proceedings for land acquisition under Maharashtra Industrial Development Corporation Act, 1961 (*hereinafter referred to as 'MIDC Act'*) had commenced in April, 2002, till date the Award has not been passed and petitioner is, therefore, not in a position to beneficially enjoy his property.

Shri Dhore, learned counsel for the petitioner, during hearing pointed out that prayer (1) in Writ Petition questioned the action of respondent no.3 in taking possession of land of petitioner. He points out that respondent no.3 as also Acquiring Body, namely, MIDC have accepted possession of petitioner but they have not determined the entitlement of petitioner to compensation in terms of the Right to Fair Compensation and Transparency in land Acquisition,

Rehabilitation and Resettlement Act, 2013 and petitioner must be paid compensation in accordance with said Act (*hereinafter referred to as '2013 Act'*). He is taking support from judgment of Hon'ble Apex Court reported at **(2013)1 SCC 353** (*Tukaram Kana Joshi & ors. ..vs.. Mah. Industrial Development Corporation and ors.*). He also points out a Division Bench Judgment of this Court reported at **AIR 1996 Bombay 224** (*Kuldip K.Kamat and anr. ..vs.. Spl.Land Acquisition Officer and ors.*).

Respective counsel for respondents submits that provisions of 2013 Act are not looked into in these judgments. They further submit that as acquisition in the present matter is under MIDC Act, 2013 Act will not have any application.

As pointed out by respondents, petitioner continues in possession hence Prayer (1) does not survive. Vide Prayer (2) petitioner seeks direction to respondent no.3 to calculate the compensation as per the provisions of 2013 Act.

Award is still not declared and as such there is nothing before this Court to hold that respondent no.3 shall not apply correct law or provisions of 2013 Act.

It is open to petitioner to approach with his grievance to the competent Court and claim compensation under 2013 Act. If the compensation is

not computed as per 2013 Act and if petitioner finds that some injustice has been done to him, at that juncture the cause of action will accrue and petitioner will be in position to approach the competent forum for its redressal.

Hence, without observing anything on merits and with liberty to petitioner to claim compensation under 2013 Act, we dispose of the writ petition.

Needless to mention that as Land Acquisition Proceedings are pending since 2002, the respondent shall try to complete it as early as possible and in any case within a period of one year from today.

Writ petition is thus partly allowed and disposed of.

No costs.

JUDGE

JUDGE

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