

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11403 OF 2014

Shantilal Ratanlal Jain and others

Petitioners

Versus

The State of Maharashtra and another

Respondents

Mr. V.P. Patil advocate for the petitioners

Mr. A.R. Kale AGP for Respondent No. 1

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

CORAM : **R.M. BORDE &
K.L. WADANE, JJ**

(Date : 5th APRIL, 2017.)

PER COURT :-

1 The petitioners are praying for quashment of the communication issued by Cidco dated 8/15.6.2012, rejecting the request for allotment of alternate land.

2 According to the petitioners, area to the extent of 1.7 Hectors out of total 4 acres is acquired by Cidco authorities for development of Waluj Mahanagar project. The acquisition of land in excess of 25% shall be compensated by way of allotment of alternate land and money compensation would not be an adequate mode of compensating the land owners as per Policy framed in that behalf. The petitioners contend that the Policy

framed by Cidco stipulates allotment of land in lieu of acquisition beyond 25% permissible acquisition out of the total area belonging to land owner.

3 Counsel appearing for the respondent contends that, such an option is available in case of the land owners who voluntarily surrender the possession of their land before initiation of proceedings of acquisition i.e. before issuance of Notification under section 126 of the Maharashtra Regional & Town Planning Act. Reliance is placed on the Judgment in the matter of **Eknath s/o Punjaji Nawale V/s. The State of Maharashtra & others** (2012 (4) ALL MR 1).

4 In the instant matter, Award in respect of acquired land has been declared on 26.3.2013. The petitioners handed over the possession of the acquired land on 2.12.2009. Although the petitioners received a Notice under section 12(2) of the Land Acquisition Act, they did not receive the amount of compensation voluntarily. It is thus, apparent that even after declaration of Award in the year 2003, the petitioners retained the possession of the property till 2009. The petitioners cannot validly claim benefit under the Policy framed by Cidco in respect of allotment of alternate land in lieu of acquisition of area more than 25% of the

land belonging to land owners. Respondent Cidco was justified in turning down the request made by the petitioners in that regard. The petitioners contend that since they have not withdrawn the amount of compensation determined under the Award in 2003, they may be permitted to withdraw the same. It would be open for the petitioners to approach the concerned authority for receiving amount of compensation and the concerned authority shall disburse the amount of compensation to the petitioners without raising any issue.

5 It would be open for the petitioners to take appropriate steps as and when occasion arises, in respect of their contentions relating to injurious affection of the remaining area of the land which is in their possession.

6 In view of above, writ petition is disposed of.

(K.L. WADANE, J)

(R.M. BORDE, J)