

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2554 OF 2016

Devesh Ramchandra Yawalkar & others	Petitioners
Versus	
Municipal Council Bhusawal & others	Respondents

**WITH
WRIT PETITION NO.2560 OF 2016**

Devesh Ramchandra Yawalkar & others	Petitioners
Versus	
Municipal Council Bhusawal & others	Respondents

Mr. S.V. Natu, advocate for the Petitioners
Mr. S.K. Tambe, AGP for Respondent Nos.2 to 4
Mr.G. V. Wani, advocate for respondent No.1

**WITH
WRIT PETITION NO.4660 OF 2015**

Municipal Council Bhusawal through: Chief Officer	Petitioner
versus	
Devesh Ramchandra Yawalakar & others	Respondents

**WITH
WRIT PETITION NO.4734 OF 2015**

Municipal Council Bhusawal through: Chief Officer	Petitioner
versus	
Devesh Ramchandra Yawalakar & others	Respondents

**WITH
WRIT PETITION NO.4771 OF 2015**

Municipal Council Bhusawal
through: Chief Officer

Petitioner

versus

Devesh Ramchandra Yawalakar & others

Respondents

**WITH
WRIT PETITION NO.4799 OF 2015**

Municipal Council Bhusawal
through: Chief Officer

Petitioner

versus

Devesh Ramchandra Yawalakar & others

Respondents

Mr.G.V. Wani advocate for the Petitioner

Mr. S.V. Natu advocate for Respondent No.1

Mr. S.K. Tambe advocate for Respondent Nos.7 to 9

CORAM : **RAVINDRA V. GHUGE, J**

(Date : 25th July, 2017.)

PER COURT :-

1 In all these matters, the claimant Devesh and others and the Municipal Council Bhusawal have challenged identical Judgments dated 4.10.2013 in Miscellaneous Civil Applications Nos.65/04, 66/04, 67/04, 68/04. All the matters have been clubbed together and are being heard together.

2 I have considered the submissions of the learned Advocates for the respective sides.

3 Considering the order that I intend to pass, I am not required to advert to their entire submissions, as I am remanding the applications at issue to the learned District Judge - IV at Jalgaon.

4 In all these matters, the claimant has a grievance with regard to the nominal compensation granted by the Court below at Rs.10/- per square foot for that portion of the land which has been acquired for laying a 24 Meters wide road. The grievance of the Municipal Council is that, compensation @ Rs.300/- per square foot has been granted by the Court below for the open space acquired by the Municipal Council in its Development Plan,

5 Mr. S.V. Natu, learned Advocate for the claimant Devesh in all these matters has made a fair statement and which is appreciable that, the law does not permit granting compensation for the open space. He makes this statement, on the basis of instructions received from the claimant, who is present in the Court as well as on the basis of law. He also places on record the purshis signed by one of the claimants which is marked 'X' for identification. He, therefore, states that this amount could not

have been granted by the Court.

6 He, however, strenuously submits that the conclusion of the Court below "*I hold that for 24 M wide road, opponent should pay nominal compensation of Rs.10/- per square foot*" is an unsustainable conclusion. There is no law which would empower the Court below to exercise its discretion unreasonably and grant a nominal compensation when a 24 M wide road is being developed after acquiring the land of the claimant. The claimant had put forth a reasonable demand of compensation at Rs.300/- per square foot and there was no impediment for the Court below to grant the said compensation,

7 I find it unusual that, the Court below has exercised discretion by concluding that a nominal compensation can be paid. In matters of compensation on acquisition of lands under the Development Plan of the Municipal Council, it is expected that, the Court below would apply the law and would arrive at an appropriate conclusion for grant of appropriate compensation. The claimants are claiming compensation as a matter of right and it is not that the council would oblige them by making payment of compensation. If a specific right is asserted, the Court is expected to apply the law and arrive at a proper

conclusion, so as to ensure that the claimant who has lost his land, is suitably compensated, keeping in view the price/value of the land at issue.

8 In the light of the above, taking into account the fair submissions made on behalf of the claimants, writ petition Nos.4771 and 4779 of 2015 are allowed and the impugned orders are quashed and set aside, as they pertain to grant of compensation for the open space. Writ Petition Nos.2554/16, 2560/16 with writ petition Nos.4660/15 and 4734/15 are allowed by setting aside the impugned Judgment, by which compensation @ Rs.10/- per square foot was granted with regard to 24 M wide road as per the DP plan. The proceedings in these petitions bearing Miscellaneous Civil Applications No.65 and 67 are remanded back to the Court of the learned District Judge - IV at Jalgaon for a hearing afresh to the extent of quantifying the compensation in accordance with law for the land acquired for laying the 24 M wide road under the DP plan.

9 The learned advocates for the respective sides submit that they would appear before the Court below on 19.8.2017 and notices, therefore, need not be issued. Needless to state, though all the contentions of the litigating sides are kept open, it is expected that the Court below would consider the law applicable

and decide the compensation to be paid for the land acquired under the DP plan for laying the road.

10 The Court below would endeavor to decide the said proceedings as expeditiously as possible and preferably on or before the 29th day of December, 2017.

(RAVINDRA V. GHUGE , J)

vbd