

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

20 WRIT PETITION NO. 12021 OF 2016

DINBANDHU GIRDHARILAL KHANDELWAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : D S Manorkar
AGP for Respondents: A.R. Kale
Advocate for Respondents : Kadethankar Ajit B. For R/2

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**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.**
DATE : 09.06.2017.

PC. :-

1. The prayer in this writ petition reads as under:

- (a) Writ of mandamus or directions of like nature may, kindly issued against the respondent no. 2 & 3 directing them to pay compensation of Rs.2,25,00,000/- for the land acquired from gut no.85/1B from Devpur Tq. & District Dhule keeping right of the petitioner to appeal for enhance.
- (b) The respondents may be directed to deposit Rs.2,25,00,000/- being amount of compensation in this Hon'ble court pending the hearing of this petitioner for land gut no.85/1B acquired and same amount may kindly be allowed to be withdrawn by the petitioner.

2. An affidavit in reply is tendered today by the Maharashtra Housing and Area Development Authority, Nashik Region. The deponent of this affidavit has accepted the position that notification under Section 41 of the Maharashtra Housing and Area Development Act, 1976 was issued by the Government on 03.09.2003.

3. The notice pertains to several lands including the one involved in this petition and claimed by the petitioner. A final notification was published on 06.11.2013, thereafter, the lands had been taken over. Inviting the attention of this court to Section 44 (2) the deponent of this affidavit states as under:

5. It is factually incorrect that, the notification was published in 1990. The initial notification was published on 03-09-2003 and final notification was published on 6th Nov. 2013.

6. The entire land acquisition procedure is conducted by the State of Maharashtra and accordingly the Sub-Divisional Officer, Dhule was Authorised to conduct the entire acquisition procedure by vide State Government Gazette published on 4th march 2014.

7. It is true that, the compensation of land has not been paid so far, however it is under process. The procedure laid down under section 44(2) has been initiated and yet to be completed. It is further

to state that in the event of failure of deciding compensation by concurrence of parties there is a provision of section 44(3) of MHAD Act 1976, to decide compensation in accordance to law.

8. It is true that, the collector, Dhule on behalf of State Government conducted a meeting on 23/3/2016 and 24/10/2016 for negotiation of compensation of the lands acquired by MHADA. At the costs of repetition it is submitted that the answering respondent has not concluded so far to the amount of compensation as demanded. Similarly, the petitioner has even denied agreeing with compensation demanded by the land owners of Gut no. 85/1A and 85/1B.

10. It is true that, petitioner has refused to accept the compensation as demanded by adjoining land losers. Similarly vide Exhibit-F of the said petition Sub-Divisional Officer, Dhule has asked Chief Officer, Nashik Board (Respondent No.2) regarding acceptance of demanded amount for on behalf of MHADA or otherwise a decision to start procedure of calculation of compensation in accordance with section 44 (3) of MHAD Act 1976.

4. Thus, it is stated that, there is never any concurrence or concluded agreement to pay Rs.2,25,00,000/-. The mutual understanding has not been reached so far. It is in these circumstances that, we do not see any apprehension on the part of the petitioner. Even if the petitioner has not

accepted any amount offered to the adjacent land owners under protest that does not mean his legal rights have been given a go bye or have come to an end. Elaborate mechanism is provided by the Act particularly Section 44, sub-section 3, in the event the negotiations break down or there is no agreement.

5. In such circumstances, the writ petition is entirely misconceived, it is premature and, therefore, stands dismissed.

[MANGESH S. PATIL, J.]

[S.C. DHARMADHIKARI, J.]