

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11832 OF 2015

St.Paul's Malayalam Parish, Pune and others. ... Petitioners.
V/s.
The State of Maharashtra and others. ... Respondents.

Madhav Jamdar for the petitioners.

PG.Sawant, AGP for respondent Nos.1 to 4.

Sandeep Marne for respondent No.5.

Rajesh A. More for respondent No.6.

**CORAM : DR.MANJULA CHELLUR, C.J.
AND G.S.KULKARNI, J.**

DATE : 13th April 2017.

PC. :

The petitioners in this case are 26 in number. They approached this Court challenging initiation of acquisition proceedings for First Rapid Transit System Road (FRTSR) pertaining to Pimpri Chinchwad Municipal Corporation. The resolution was in the year 2005 to acquire the lands for the formation of the above-said road. According to the respondent- authorities, the authorities did try negotiations with the land owners/ interested persons to

acquire the lands by paying compensation which is arrived at after due deliberations between the parties wherein the quantum of compensation is agreed upon. According to them, some of the owners/ interested persons did not agree for the same. However, there is serious contention raised on behalf of the petitioners that since some of the petitioners were approached by one of the Corporators seeking power of attorney in his favour to do everything on their behalf to get the compensation, the said petitioners did not agree for the consent award. However, the fact remains that some of the owners of the land/ interested persons came forward for consent award and compensation is fixed as per consensus between the parties. Some of the owners, who did not agree for the consent award, are before us challenging the acquisition proceedings. So far as the project in question is concerned, one has to say that it is for the benefit of the general public and is undertaken in the larger public interest. Therefore, the said road has to be formed. As such we are not going into the validity of the project.

2. Out of total 26 petitioners, some of them have negotiated with the authorities wherein certain amount of compensation was fixed after consensus. However, some of the petitioners have not agreed upon, therefore, their cases went for further proceeding or further stage of acquisition proceeding and, ultimately, an award came to be passed on 20th August 2016 i.e. during the pendency of this petition. Apparently, so far as petitioners who compromised the

matter are concerned, the quantum of compensation arrived at is more compared to the compensation awarded by the Land Acquisition Officer to the petitioners who contested acquisition proceedings. According to the petitioners, this methodology adopted by the respondent- authorities is not to be encouraged and even the petitioners, whose lands were acquired by an award, must get quantum of compensation on parity along with others who did not agitate before the Land Acquisition Officer. It is brought on record that out of 26 petitioners in this matter, petitioner Nos.1, 2, 4, 5, 6, 7, 9, 10, 14, 15, 17, 22, 23 and 25 did not agree for consent award and in their case regular acquisition proceedings were taken up and awards were passed as stated above.

3. So far as rest of the petitioners, petitioner Nos.12, 16, 18 and 19, during the pendency of the petition have come forward to compromise the matter with the respondent- authorities and they have agreed upon the compensation amount. They have also handed over possession of their lands to the authorities. Now, out of total 26 petitioners 8 petitioners are left where there is neither consent award nor contested award. According to the respondent- authorities, there is likelihood of consent award pertaining to these 8 petitioners and the negotiations are in progress.

4. So far as the petitioners in whose cases contested award has been passed, the respondent- authorities are still at liberty to buy

peace by acceding to the request of the said petitioners to treat their cases on par with the others who obtained consent award. Since awards are already passed, we cannot now compel the respondent-authorities to pay the compensation on par with the owners/interested persons who did not contest acquisition proceedings. However, those petitioners are not precluded from approaching appropriate authorities for enhancement of compensation in accordance with the procedure contemplated.

5. Since the awards are already passed in respect of the petitioners referred to at para-6 of the additional affidavit filed by respondent No.5, the respondent-authorities are at liberty to proceed further strictly in accordance with due process of law to take possession of the lands for the formation of road. There is no need to give any directions in the case of petitioners who have compromised and have taken consent award, since they have voluntarily handed over the possession of their lands. So far as petitioners who are yet to make up their mind with regard to the consent award or contested award, the respondent-authorities are entitled to take possession of their lands, but only after completing the process of deliberations or the acquisition proceeding as the case may be i.e. either by consent award or contested award.

6. In the above circumstances, the petitioners who have already suffered contested award are at liberty to approach the

concerned authority with a representation to treat their case on par with the petitioners who have taken consent awards within 10 days from today. It is totally in the wisdom of the respondent- authorities to consider the said representation and dispose of the same. The said representation be decided within 15 days from the date of its submission. Depending upon the outcome of the representation, the said petitioners are entitled to file application in terms of section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for reference within four weeks from the date of decision. At that stage, the said application shall be considered without touching the issue of limitation.

7. The status-quo order is vacated and the consequences of the award passed will follow so far as possession of the lands is concerned.

8. With the aforesaid observations, writ petition is disposed of.

(G.S.KULKARNI, J.)

CHIEF JUSTICE