

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4501 OF 2015

Abdul Rehman son of Haji Umar Motiwala	]	
through his brother and Constituted Attorney	]	
Shri Abdul Majid s/o Haji Umar Motiwala.	]	... Petitioner

Versus

The State of Maharashtra, Through	]	
Government Pleader, High Court & Ors.	]	... Respondents

Mr. Ashish Mishra i/b Mr. N. K. Mudnaney for Petitioner.
 Mrs. M. P. Thakur, AGP for State.
 Mr. B. B. Sharma for Respondent No.2.

CORAM :- DR. MANJULA CHELLUR, C.J., &
G. S. KULKARNI, J.
DATE :- 16 MARCH 2017

P. C. :-

1. The petitioner whose land was the subject-matter of acquisition for the Navi Mumbai Project, is before us seeking the following reliefs :-

“(a) that this Hon'ble Court may be pleased to issue Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate direction or order under Articles 226 and 227 of the Constitution of India directing and commanding the Respondents to handover forthwith the Petitioner the said Plot bearing No.70, of Sector 22 of Kamothe under 12.5 % Scheme as per the Final Order

No.CIDCO/PLNG (SPECIAL SCHEMES)/99 dated 12.04.2010 (Exhibit “H” hereto) and to issue intent Letter/Sanad/ Conveyance Deed in favour of the Petitioner.

- (b) that pending hearing and final disposal of the Petition, the Respondents by themselves, their agents and servants be restrained by an order and direction from this Hon'ble Court from selling, assigning, transferring or parting with possession of the said Plot No.70 in Sector 22 of Kamothe to anyone other than the Petitioner.*
- (c) Interim and ad-interim reliefs in terms of prayer (b) above be granted.*
- (d) For Costs, and*
- (e) For such further and other reliefs as the nature and circumstances of the case may require.”*

2. Learned Counsel for CIDCO submits that there is no dispute so far as the entitlement of the petitioner in regard to the allotment of a plot of land under the 12.5 % scheme. He has drawn our attention to a letter dated 03/10/2006 (page 48 of the paper-book) by which the petitioner was informed of his entitlement and that an allotment would be made by drawing lots. However, inadvertently, one plot of land came to be demarcated which the petitioner is claiming that he is entitled for the same plot, which was allotted not by drawing lots.

3. The petitioner does not dispute that the allotment of land under the 12.5 % scheme should be by drawal of lots and that he would not be entitled to a specific plot as inadvertently granted by the respondent CIDCO as set out in the petition

4. Learned Counsel for CIDCO has placed on record a public notice dated 26/12/2016 whereby it was notified to draw lots under the 12.5 % scheme in which the name of the petitioner is at Sr.No.13 in Column No.2. He submits that the petitioner would be accordingly allotted a plot of land on the basis of lots which would be drawn as per the public notice. In our opinion, if this be the position, then the grievance of the petitioner stands satisfied. In the circumstances, the petition is being disposed of by directing the CIDCO to make an appropriate allotment of plot of land to the petitioner by drawing lots as per the public notice dated 25/12/2016. We have not examined any other issue as raised by the petitioner.

5. The petition is disposed of in the above terms.

6. There shall be no order as to costs.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)