

Jsn

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9475 OF 2016

M/s. Devi Construction Company ... Petitioner
Versus
The Municipal Corporation of the City of Pune ... Respondents

Mr. Rampal S. Kohli, for the Petitioner.

**CORAM: SMT. VASANTI A NAIK AND
MR. RIYAZ I. CHAGLA, JJ.
DATED: 22ND NOVEMBER 2017**

PC:-

By this writ petition, the petitioner seeks a direction to the respondent corporation to forthwith pay an amount of Rs.3,19,69,080/- along with interest towards the balance amount of interim compensation.

The petitioner had filed a writ petition bearing writ petition no. 2585 of 2014 in which a grievance was made by the petitioner that the land of the petitioner was secured by the respondents for widening of the road but no steps were taken by the respondents for the acquisition of the land. The writ petition was partly allowed and the respondents were directed to conclude the proceedings within two years from the date of the order in the writ petition. The respondent corporation was directed to determine the market value of the land, as on 5th March 2013 in accordance with the then prevailing ready reckoner and to pay interim compensation to the petitioner within a period of four months.

In pursuance of the directions issued by this Court, the respondent corporation paid an amount of Rs.4,60,52,820/- to the petitioner. The petitioner was however not satisfied, as according to the petitioner, the petitioner was entitled for an additional amount of Rs.3,19,69,080/-. The petitioner therefore filed contempt petition no. 191 of 2015 on the ground that the amount paid to the petitioner towards interim compensation was inadequate and the directions of this Court were not followed. The contempt petition was disposed of by keeping the contentions on merits, open. Since the acquisition proceedings were not initiated by the respondent corporation and were not concluded within the period of two years from the date of the order in writ petition no. 2585 of 2014, the petitioner has filed yet another contempt petition seeking action against the respondent corporation under the Contempt of Courts Act for wilful disobedience of the directions in the order dated 26th July 2014. In the aforesaid background, the petitioner has filed the instant petition seeking an additional amount of Rs.3,19,69,080/- with interest, as according to the petitioner, the respondent corporation ought to have paid an amount of Rs.7,80,21,900/- to the petitioner towards the interim compensation.

We are not inclined to decide the issue pertaining to the adequacy or otherwise of the grant of interim compensation to the petitioner, in exercise of the writ jurisdiction. This court had directed the corporation to acquire the land of the petitioner within a particular time. The petitioner would be entitled to receive the compensation for the acquisition of his land as per the market value. To grant some solace to the petitioner, the Court had

directed the corporation to pay interim compensation to the petitioner at the prevailing rates. The petitioner would be entitled to compensation towards the acquisition of the land which would include the compensation that is paid to the petitioner towards interim compensation. If according to the petitioner, the compensation paid to the petitioner in the acquisition proceedings is inadequate the petitioner would have a remedy for seeking enhancement of the compensation. The issue as to what should be the exact amount that could be paid to the petitioner as interim compensation cannot be decided in exercise of the writ jurisdiction. It would be necessary to keep the point in regard to the payment of interim compensation to the petitioner, open. As interim compensation would always be included in the total compensation that may be payable to the petitioner, it would be necessary to dispose of the writ petition.

Hence, by keeping the points raised in the petition open, we dispose of the petition with no order as to costs.

(RIYAZ I. CHAGLA J.)

(SMT. VASANTI A. NAIK, J.)