

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition NO. 6629 OF 2014

Dr. Abdul Khalicq Shaikh And Ors ...Petitioners

Versus

The State Of Maharashtra And Ors ...Respondents

Mr.J.A.Udaipuri with Ms.Madhu Law i/b. Udaipuri & Co., for the Petitioners.

Mrs.M.P.Thakur, AGP for the State-Respondent Nos.1 and 2.

Mr.B.B.Sharma, for Respondent No.3

Mr.Sachin Punde, for Respondent No.4A.

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

DATE : FEBRUARY 23, 2017

P. C.

1. According to the Petitioners, they are the owners of the land which came to be acquired for formation of New Bombay by CIDCO. According to the Petitioners, the original owners have executed a power of attorney in favour of ancestors of Respondent No.4 and there is no creation of any interest or right as claimed by respondent No.4. According to the Petitioners, 60% of the

compensation amount is already paid by CIDCO to the ancestors of Respondent No.4 which becomes subject matter of dispute inter se between Respondent No.4 and legal heirs of alleged power of attorney holder of the Petitioners, if the said money is not paid to the Petitioners.

2. However, the present claim seems to be with regard to implementation of policy of the year 1990 onwards by the State to give 12.5% of the developed area vis a vis the area which is already acquired by the CIDCO, to the owners as a policy decision of the State. Apparently, even legal notices are sent on 22 April 2014 and 6 May 2014 which are yet to be replied till date. Though the Writ Petition is filed in the year 2014, till date the CIDCO has not placed its reply on record.

3. During the course of argument, learned Counsel for CIDCO states that there is a rival claim, claiming benefits in the matter that is Respondent No.4 through their ancestors. If there is such a rival claim, it is open to CIDCO to call for records from both the parties and decide the representations of the parties.

Their long silence in the matter as a matter of fact is increasing litigation which could have been avoided by the CIDCO. If they were to decide the representations of the Petitioners probably this stage would not have come where we are compelled to direct CIDCO to consider the representation.

4. In the light of the above observations, we direct Respondent-CIDCO to consider the representations sent through Advocate by the Petitioners as stated above, within eight weeks from today after giving an opportunity not only to the Petitioners but also so called rival claimants, if any.

5. The Writ Petition is accordingly disposed of.

(G.S.KULKARNI, J.)

(CHIEF JUSTICE)