

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7626 OF 2014

Chandrakant Chintaman Thakur & others. ... Petitioners.
V/s.
The State of Maharashtra and others. ... Respondents.

Sadashiv Deshmukh i/b. Dinesh Kole for the petitioners.

Mrs.M.P.Thakur, AGP for the State.

Mandar Limaye for respondent No.3.

Vijay Patil for respondent No.4.

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

DATE : 23rd February 2017.

PC. :

The petitioners are before this Court seeking following reliefs:

- “A] To call for the necessary records and proceedings from the Respondent Nos.1 to 4;
- B] To issue a Writ of mandamus or any other appropriate Writ, order or directions in that nature directing to the respondents no.1 to 4 to

pay compensation to the petitioners just and fair as per The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013....”

2. Apparently, the land admeasuring 1 Hectare 42 Ares in old Survey No.286, new Survey No.17 of Bhayender Pada within Thane Municipal Corporation seems to have been forcibly made use for formation of road way back in 2000 without adhering to any acquisition process or procedure whatsoever. After 17 years, according to the respondents, the petitioners can sell their TDR which is available as per the policy decision and make money and should not seek monetary compensation from the respondent-Corporation. We have gone through the correspondence at page-13 Exh.A where there is a specific communication to the petitioners from respondent No.3 dated 17th November 2000 asking the petitioners to hand over possession of the property and in return they would be compensated by monetary benefit or TDR. After 17 years there is a complete change in the stand of the Corporation, probably because the value of the properties have gone up in the last 17 years. Therefore, according to them, out of three options i.e. FSI, TDR and compensation, the Corporation is intending to extend the TDR as charity and not monetary compensation. If there is any procedure, guideline, regulation or policy giving options to the land losers to choose one of the options in lieu of losing of land, we fail to

understand how the respondent Corporation can pressurize the land losers to accept what the Corporation thinks suitable in the given situation. We are of the opinion that in order to compensate the loss of the land, the guidelines or the norms have to enure to the benefit of the land loser and not to the whims and fancies of the Corporation. In that view of the matter, if the petitioners seek monetary compensation, the same has to be paid in terms of the new Act i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("Act of 2013" for short) since the Land Acquisition Act, 1894 is not in force any more. Under the Act of 2013, either by consent they can arrive at price of the land or they have to initiate acquisition proceedings in terms of the Act of 2013.

3. With the aforesaid observations, we dispose of this petition directing respondent No.3- Corporation to initiate the exercise as indicated above and complete the same within three months from today.

(G.S.KULKARNI, J.)

CHIEF JUSTICE