

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9302 OF 2014

Krishnaleela Enterprises Pvt. Ltd. .. Petitioner
V/s
Nashik Municipal Corporation & Anr. .. Respondents

**WITH
WRIT PETITION NO. 5669 OF 2015**

Thakkers Developers Pvt. Ltd. .. Petitioner
V/s
Nashik Municipal Corporation & Anr. .. Respondents

**WITH
WRIT PETITION NO. 5677 OF 2015**

Thakkers Developers Pvt. Ltd. .. Petitioner
V/s
Nashik Municipal Corporation & Anr. .. Respondents

**WITH
WRIT PETITION NO. 6564 OF 2015**

Thakkars Developers Ltd. & Ors. .. Petitioners
V/s
The State of Maharashtra & Ors. .. Respondents

**WITH
WRIT PETITION NO. 7070 OF 2014**

Shri Yashwant Laxman Navle & Ors. .. Petitioners
V/s
Nashik Municipal Corporation & Anr. .. Respondents

WITH
WRIT PETITION NO. 9303 OF 2014

Shubhakamana Builders Pvt. Ltd.	.. Petitioner
V/s	
Nashik Municipal Corporation & Anr.	.. Respondents

Mr. P.J. Thorat for the petitioners in WP No.9302/2014, WP No. 5669/2015, WP No.5677/2015, WP No.7070/2015 and WP No. 9303/2015.

Mr. G.S. Godbole i/b Mr. Sumit Kothari for the petitioners in WP No.6564/2015.

Mr. Shekhar Jagtap i/b J. Shekhar & Co. for respondent nos.1 and 2 in WP No.9302/2014, WP No. 5669/2015, WP No.5677/2015, WP No.7070/2015 and WP No. 9303/2015.

Mr. P.G. Sawant, AGP for the State.

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

DATE : 27th FEBRUARY 2017

P.C.:

In all these writ petitions, the land of the petitioners came to be handed over for development without any resistance by the petitioners. Apparently the reservation was for DP Road. The particulars in respect of reservation, viz. total area of the property, survey number, area of reservation and the year of handing over possession, are given in the table below:

S.No.	WP No.	Description of Property	Area of reservation	Year/Date of handing over possession
1.	WP 9302/2014	S.No.63/1 totally admeasuring 0 H 3 R situate at Anandwalli, Tal & Dist Nashik	445 sq. mtrs.	21/8/2004
2.	WP 5669/2015	S.No.798/1 totally admeasuring 1 H 57.33 R situate at Tal & Dist Nashik S.No.798/2 totally admeasuring 1 H 57.33 R situate at Tal & Dist Nashik	720 sq. mtrs. 2460.62 sq. mtrs.	1996-96
3.	WP 5677/2015	S.No. 758/1A totally admeasuring 1 H 24.61 R situate at Tal & Dist Nashik	1346 sq. mtrs.	2004
4.	WP 6564/2015	S.No.955/A/2/1 totally admeasuring 24,783 sq. mtrs. situate at Tal & Dist Nashik	4605 sq. mtrs.	25/11/2005
5.	WP 7070/2014	S.No.434/1 and 434/5/1 totally admeasuring 0 H 47 R situated at Makhmalabad, Tal & Dist Nashik	640.50 sq. mtrs.	12/1/1994
6.	WP 9303/2014	S.No. 51/2 totally admeasuring 0 H 71 R situated at Makhmalabad, Tal & Dist Nashik	2110 sq. mtrs.	13/8/1997

2. Apparently the possession of land came to be handed over at different points of time from 1995-96 onwards. The last of such possession was taken in the year 2005. There was offer for TDR benefit and the petitioners resisted the same asking for compensation benefit. The fact remains that till date there is no payment of compensation to the petitioners though they lost their

land between 1995-96 and 2005. Now in the light of new enactment, i.e. Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, coming into force replacing the Land Acquisition Act, 1894, the compensation has to be determined in terms of the new enactment.

3. It is expressed by us in earlier decisions that option of taking benefit of FSI/TDR and compensation cannot be chosen by the authorities, which acquire the land, or the beneficiary. The option must be to the advantage of the petitioners as per their choice, since the land was handed over without any resistance.

4. Under these circumstances, we are of the opinion that the respondent authorities have to initiate proceedings and complete the entire process including payment of compensation within six months in accordance with the procedure contemplated.

5. The writ petitions are disposed of with the above observations.

(G.S. KULKARNI, J.)

CHIEF JUSTICE