

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10710 OF 2014

Santosh Datta Dhavale & Ors. .. Petitioners
V/s
Special Land Acquisition Officer No.13 & Ors. .. Respondents

Mr. S.V. Sadavarte for the petitioners.
Mrs. M.P. Thakur, AGP for the State.
Mr. G.S. Hegde with Mr. C.M. Lokesh and Ms. Juhi Pandey i/b A.R.
Bhole & Co. for respondent no.3.

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

DATE : 27th MARCH 2017

P.C.:

Heard learned counsel for the petitioners as well as Mr. Hegde appearing for the respondent – MIDC.

2. What we understand from the averments raised in the writ petition that on earlier occasion also the petitioners had filed a writ petition being Writ Petition No. 8549 of 2010 seeking several reliefs in respect of acquisition of land belonging to the petitioners. Apparently, after the affidavit in reply of respondent no.2 – MIDC was placed on record, which is at Exhibit “A” from page 14 onwards, the said writ petition came to be withdrawn on 12th September 2012 reserving liberty to the petitioners to approach MIDC for redressal of grievances in terms of the reply affidavit, especially para 12 of the reply affidavit.

3. Subsequently when the petitioners approached for allotment of alternate land in lieu of compensation to be paid for the land belonging to the petitioners, the respondent Corporation rejected the said request by referring to the scheme which is annexed at Exhibit "B" / page 51 filed along with the affidavit in reply of respondent no.3 in the present writ petition. In terms of the scheme, which is read to me by learned counsel for the petitioners himself, especially page 52 item no.2 under the heading "terms and conditions of eligibility to get land in lieu of compensation", it clearly says that if the land is acquired by MIDC for the purpose of laying waterline, sewerage or approach road, in such situation the owner of the land cannot ask for allotment of land in lieu of compensation to be paid for the land. Apparently, in the present case, the land came to be acquired for creation of approach road to the industrial area / estate created by the respondent MIDC. The terms of the scheme, which were in existence at the time of earlier writ petition as well as at the time of withdrawal of the petition, continue to be still in existence as on today. Therefore, the petitioners are not entitled for allotment of land in lieu of compensation. The grievance of the petitioners seems to be that since para 12 of the earlier affidavit in reply misled the petitioners to believe that they would be entitled to get land in lieu of compensation, the petitioners withdrew the earlier writ petition and came up with the present petition after rejection of their claim for allotment of land. Though we appreciate such stand, ultimately we may not be able to help the petitioners to grant the

relief of allotment of land in lieu of compensation, since the policy of the scheme which was in existence is the very same scheme which is now in existence. The only confusion seems to be that the petitioners and their advocate did not have an occasion to see the scheme. However, we make it clear that even if they had seen the scheme, they would not have got the benefit of the scheme in terms of the scheme itself. Therefore, whether they became aware of the scheme then or now would not change the factual situation so far as petitioners are concerned. Learned counsel for the petitioners is fair enough to admit that even if they had seen the scheme, the petitioners would not have had the benefit of the scheme at the time of withdrawal of the earlier petition.

4. In that view of the matter, we are of the opinion that the petitioners are entitled for compensation in terms of money and not the land. With these observations, we dispose of the petition directing the respondent MIDC to pay to the petitioners the compensation amount along with interest at 8% per annum thereon from the date of the award till the date of payment, since the affidavit in reply has misled the petitioners to wait till date to get their compensation.

(G.S. KULKARNI, J.)

CHIEF JUSTICE