

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12310 OF 2017

Khatoon Minorities Women Social Welfare
Educational Society.

... Petitioner.

V/s.

The Collector, Dist. Nashik and others.

... Respondents.

Mr.V.R.Kasle i/b. Ram and Co. for the petitioner.

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

CORAM : A.S.OKA AND M.S.SONAK, JJ.

DATE : 27th August 2018.

P.C.:

Heard the learned counsel appearing for the petitioner. The petitioner claims to be an owner of the land more particularly described in paragraph-2 of the petition. It is stated by the petitioner that an application has been made by the petitioner for grant of permission under the provisions of the Maharashtra Land Revenue Code, 1966 (for short "the said Code") to convert the subject land to a non-agricultural use. According to the petitioner, the land is held on new tenure and the petitioner is an occupant Class-II. The petitioner is relying upon various reports submitted by the Revenue Officers under the said Code.

2. The first prayer in this petition is for seeking a writ of mandamus directing the respondents to grant permission to the petitioner

to use the said land for non-agricultural purposes without considering the remark in the existing record of rights that there is a proposed acquisition by the Maharashtra Industrial Development Corporation (MIDC). The second prayer is for deletion of the aforesaid entry regarding proposed acquisition in the revenue records. The third prayer is for issue of a writ of mandamus directing the respondents to quantify the Nazrana amount on the basis of premium payable in the year 1996.

3 The first two prayers in the petition relate to the entries in the record of rights. If the petitioner is aggrieved by the said entries, the petitioner has a remedy elsewhere under the said Code to challenge the said entries. So long as the said entry is in existence, we cannot issue a writ of mandamus to the authorities to ignore the said entry. As far as prayer (c) which the last substantive relief is concerned, it is for the authority which is empowered to deal with the application made by the petitioner to decide in what manner Nazrana amount payable by the petitioner should be computed provided the said authority is of the view that permission deserves to be granted.

4. However, if the application made by the petitioner is pending, the same will have to be decided within a time-bound schedule. Accordingly, we pass the following order:

- (i) We decline to grant any relief in terms of substantive prayers made in this petition. If the petitioner is aggrieved by any entry in the records of right, the

petitioner is free to adopt appropriate proceedings in accordance with law for challenging the said entry;

- (ii) If the application made by the petitioner for grant of permission to use the subject land for non-agricultural purpose is still pending with the respondent Nos.1 to 3 or any of the authority, we direct that appropriate decision shall be taken thereon within a period of two months from the date this order is uploaded on the server and the same shall be immediately communicated to the petitioner. All contentions on merits of the said application are kept open;
- (iii) Subject to what is observed above, the petition is disposed of.

(M.S.SONAK, J.)

(A.S.OKA, J.)