

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.4625 OF 2017**

Mofatraj Pukhraj Munot and Ors.

...Petitioners

Versus

Union of India and Ors.

...Respondents

.....

Dr. Milind Sathe, senior Advocate with Mr. Saket Mone, Mr. Suneet Tyagi, Ms Jayshree R., Mr. Subit Chakrabarti and Ms Neha Joshi i/b. M/s. Vidhi Partners for the Petitioners.

Mr. A.P. Vanarse, AGP for the Respondent -State.

Mr. S.D. Patil for the Respondent Nos.2 to 4.

Mr. R.S. Khadapkar for the Respondent Nos.7 and 8.

Ms Jyoti Kadam, Sub Divisional Magistrate (SDM), Haveli, Pune is present.

Mr. Jwo DKS Boghel, Work Legal Cell, Air Force Station, Mumbai, is present.

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**CORAM : RANJIT MORE AND  
SMT. ANUJA PRABHUDESSAI, JJ.**

**DATED: 2<sup>nd</sup> JULY, 2018.**

**P.C.:-**

Heard the learned counsels for the respective parties. The

Petitioners are seeking following reliefs :-

a) that this Hon'ble Court be pleased to issue a writ of mandamus directing the Respondents not to act in pursuance of the notifications dated 1<sup>st</sup> October, 1975, 22<sup>nd</sup> May, 2001, 14<sup>th</sup> February, 2007 issued under WoD Act and Notification dated 5<sup>th</sup> January, 1988 under the

Aircrafts Act and/or the Public Notice dated 9<sup>th</sup> April, 2008 issued under Section 3(2) of WoD Act in respect of Part A of Petitioners' property bearing Survey No.129, Hissa Nos.1/1A/2, 1/1A/2/1, 1/1B and 1/1B/1 as the said property is neither specified in the Annexures/Schedule annexed to these notifications nor appearing in the list of affected Survey Numbers mentioned in the aforesaid Public Notice or in the alternative to complete the acquisition thereof and pay compensation in accordance with the Land Acquisition, Rehabilitation and Resttlement Act, 2013;

b) that this Hon'ble Court be pleased to issue a writ of mandamus any other writ, order or direction in the nature of mandamus directing Respondents to complete the acquisition of Petitioners' property bearing Survey No.154, Hissa Nos.3A, 4+5/2 and 3B/2, Survey No.156, Hissa No.3+4+5 and Survey No.157, Hissa Nos.3 and 5, and pay compensation in accordance with the Land Acquisition, Rehabilitation and Resettlement Act, 2013;

c) that this Hon'ble Court be pleased to alternatively, direct Respondent No.6 to make an award under Section 12 of WoD Act and pay compensation to Petitioners as per the relevant sections of Land Acquisition, Rehabilitation and Resettlement Act, 2013 towards restrictions imposed on Petitioners for use and enjoyment of Part B of the Petitioners Subject Property;

d) that this Hon'ble Court be pleased to alternatively, direct Respondent No.1 to make an award under Section 9 B of the 1934 Act and pay compensation to Petitioners as per the relevant sections of Land Acquisition, Rehabilitation and Resettlement Act, 2013 towards restrictions imposed on Petitioners for use and enjoyment of Part A of the Petitioners Subject Property.”

2. The Petitioners are the owners of Survey Nos.129, 154, 156 and 157 situated at Lohgaon, Taluka-Haveli, Pune. The subject land is more appropriately described at Exhibit-A page No.44.

3. The Central Government Notification dated 14<sup>th</sup> February, 2007 issued in exercise of powers under Sections 3 and 7 of the Works of Defence Act 1903 (7 of 1903), imposed restrictions upon the use and enjoyment of the land in the vicinity of the Indian Air Force Station and Installations. Under the said notification, no building or structure can be constructed, created or erected or no tree shall be planted within the limits of 900 meters from the crest of the outer parapet of Indian Air Force Stations and Installations specified in Annexure-'B' to the said notification, which included Air Force Station-Lohagaon, Pune. As stated above, the Petitioners' land as described above, is affected by the restrictions imposed by the said notification.

4. In terms of the said notification, the Collector, Pune, issued a public notice dated 9<sup>th</sup> April, 2018 as per, which refers to the Petitioners' land bearing Survey Nos.154, 156 and 157. It is not in dispute that though the land bearing Survey No.129 is not mentioned

in the said notice, the same is also affected by the restrictions.

5. The Petitioners' claim that the Respondents have not followed the procedures under Works of Defence Act, 1903 and have not paid compensation for the restriction on the user of the said land.

6. Mr. Naval Kishor Ram, the Collector, Pune, Respondent No.6 has filed his affidavit dated 22<sup>nd</sup> June, 2018. In paragraph 12 of the said affidavit, he has made a specific statement, which reads thus:-

“12. I say that, the Collector Office is ready to initiate the procedure of passing the award and to pay compensation in respect of restricted zone of the Village Lohagaon according to the provisions of WoD Act, 1903. However, the Respondent Nos.1 to 4 has to deposit the measurement fees and payment of compensation of restricted zone.”

7. Mr. Vanarase, the learned AGP submits that though the Collector Office decides the compensation in respect of the Petitioners' land which are affected by the said notification of the Central Government under Works of Defence Act, 1903, the compensation is required to be paid by the Central Government. Mr. Patil, the learned counsel for the Respondent -Union of India, on instructions, states that the Respondents-Union of India is ready and willing to pay the

measurement fees and compensation. He submits that necessary money to be paid by way of compensation and measurement fees shall be made available to the Respondent No.6. Statement is accepted.

8. Mr. Vanarse, the learned AGP for the Respondent -State, on instructions submits that the process for fixing compensation and payment in respect of the Petitioners' land for the restriction on the user of the subject land as per the procedure referred above would be completed within a period of nine months from today in accordance with law. Statement is accepted.

9. In the light of above, Mr. Sathe, the learned senior counsel for the Petitioners fairly concedes that grievance raised in the petition stands redressed. Hence, the writ petition stands disposed of.

**(SMT. ANUJA PRABHUDESSAI, J.)**

**(RANJIT MORE, J.)**