

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

WRIT PETITION NO. 12160 OF 2017

Chandrakant Namdeo Patil .. Petitioner
Versus
City & Industrial Development
Corporation of Maharashtra Ltd. & Ors. .. Respondents

Mr. Rahul Thakur for Petitioner.
Mr. B.B. Sharma for Respondent No.1.
Smt. Madhubala Kajle B Panel Counsel for Respondent Nos. 2 to 7.

**CORAM : A.A. SAYED &
S.C. GUPTE, JJ.**

DATE : 04 SEPTEMBER 2018.

P.C. :-

1. This Petition challenges taking over of possession of the Petitioner's land ad-measuring 29.9 R (2996 Sq. Mtrs.) by Respondent No.1-CIDCO for its Navi Mumbai Project. In the alternative, the Petitioner, as owner of the land taken possession of by Respondent No.1, seeks an order against the State, represented by Respondent Nos. 2 to 7, to acquire the said land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 within six months with compensation and consequential benefits in accordance with that Act.

2. The short facts of the case may be stated as follows :-

The Petitioner claims to be the owner of ancestral land bearing Survey No. 183 Part village Talavali, Thane, which ad-measured 6 Acres 20 Gunthas, equivalent to about 26300 Square Meters. The land appears to have been purchased by the Petitioner's father by a registered purchase deed. (It is the case of the Petitioner that this land was purchased on account of the joint family of the Petitioner's father and uncles. The Petitioner claims to have one-fourth share in the land, the other three shares being shown in the award. There is no dispute, however, between the parties as to their ownership or shares.) The land came to be notified for Navi Mumbai Project undertaken by Respondent No. 1. The notification issued by the State under Section 6 of the said Act described the land as Gut No. 183 Part ad-measuring 6 Acres, 20 Gunthas equivalent to 2 Hectares 63 Ares. It is the case of the Petitioner that the land out of what was notified under Section 6 of the Land Acquisition Act ("said Act") and which came to be acquired under an award passed under Section 11 of the Act, was land ad-measuring 23304 Square Meters and not the entire land of 26300 Square Meters. It is submitted that the balance 2996 Square Meters land from Gut No. 183 Part was unauthorizedly taken possession of by Respondent No.1 purportedly under the award

referred to above. It is submitted that there is neither an award passed under Section 11 of the said Act for this particular area nor any compensation paid or other benefits extended to the Petitioner for acquisition of this land.

3. It is clear from the notification issued under Section 6 of the said Act that the entire area of plot bearing Gut No. 183 Part ad-measuring 6 Acres and 20 Gunthas equivalent to 2 Hectares 63 Ares was notified by the State for acquisition. It is also clear from the award passed under Section 11 of the said Act that the entire plot of land described as Gut No. 183 Part and which ad-measured 6 Acres and 20 Gunthas (that area being described as the true area of the land under acquisition) was acquired by the State. Insofar as the determination of valuation for working out the compensation payable for the land is concerned, a mistake appears to have crept in, in the award, as a result of an incorrect conversion of the area of the land from Acres and Gunthas to Hectares and Ares and thence to Square Meters. The mistake, which has been pointed out by Respondent No. 1 in his affidavit-in-reply, appears to be on account of wrong description of the area of the land in Hectares and Ares, in addition to Acres and Gunthas, as 2 and 33 R, when the correct description of the land by ad-measurement in accordance with Section 6 notification was 6

Acres 20 Gunthas equivalent to 2 Hectares and 63 Ares. Converting Hectares and Ares into Square Meters, the area of the land acquired was worked out, for the purposes of determining the compensation, to 23304 Square Meters and applying the rate of Rs. 2.40 per Square Meter to such area, the total value of the land of Rs. 55929.60/- was assessed in the award. Learned counsel for Respondent No. 1, on instructions of his clients, offers to pay the difference for the area of the land actually acquired after duly receiving a payment proposal for compensation from Special Land Acquisition Officer. Learned counsel submits that as soon as this proposal is received from the State, necessary action to make payment to the office of SLAO, Metro Center, Thane would be taken up by his client.

4. Learned counsel for the Petitioner, however, objects to the course suggested by Respondent No. 1. Learned counsel submits that this is not a case where there is a clerical error or arithmetical mistake in the award. Learned counsel submits that this is a case where the acquisition itself is restricted to 23304 Square Meters. In any event, learned counsel submits that if it is the case of the State that the award contains a clerical or arithmetical mistake, the State was duty bound to cause a

correction to be made in the award at any time not later than six months from the date of the award. Learned Counsel submits that this was not done. Learned counsel contends that since the additional land, which was not part of the acquisition, or the award made, is already taken possession of by the State and utilized for the Navi Mumbai Project, fresh acquisition proceedings ought to be initiated in respect of this additional land under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6. As we have shown above, what is acquired by the State in the present case is the entire plot designated as Gut No. 183 Part which ad-measured 6 Acres and 20 Gunthas. There is no clerical or arithmetical error in the award. The true area of the land acquired is correctly described in the award as 6 Acres and 20 Gunthas. The mistake, if any, is caused in the calculation of compensation for this area. The area has been firstly wrongly converted into Hectares and Ares and then into Square Meters, whilst working out the compensation. Respondent No.1-CIDCO has offered to correct this mistake in determination and payment of compensation by making differential payment in accordance

with law. Once such payment is made, the grievance of the Petitioner in respect of the mistake in determining the compensation payable for the land acquired by the State would be fully redressed.

7. It is important to notice that in the present case the acquisition has happened as far back as in 1986. Even the possession receipt issued by the Petitioner in respect of the land which is taken over by the State in pursuance of the award puts the area of the land as 6 Acres and 20 Gunthas. Though the Petitioner has received compensation corresponding 23304 Square Meters, and for which he even caused the matter to be referred to the reference Court under Section 18 of the said Act, he never approached the authorities, or the Court till the filing of the present Petition, that is to say, till October 2017, challenging the act of Respondent No. 1 in taking over physical possession of the additional land. More than three decades have passed since the acquisition was made and since the land was taken over by the State and compensation was paid to the Petitioner. The Petition clearly suffers from grave delay and laches and contains a stale claim. Nevertheless, the Respondent No. 1-CIDCO has fairly offered to pay the differential compensation along with such

benefits as are admissible to the land owner in law for the additional area of 2996 Square Meters.

8. Accordingly, we find no reason to interfere in the present matter and dispose of the writ petition by accepting the statement of Respondent No.1-CIDCO, that CIDCO shall pay the differential amount to the four land-owners including the Petitioner herein through the office of Special Land Acquisition Officer immediately upon receipt of a payment proposal for compensation from the latter and also extend such benefits as are admissible in Law to the land owners. We direct the Respondent-State to prepare a proper payment proposal of compensation for the differential area of land described above, for which compensation was not determined and paid to the Petitioner. Within a period of six weeks after receipt of the proposal, Respondent No.1-CIDCO shall deposit the compensation with Special Land Acquisition Officer, Metro Center, Thane, who in turn shall cause the payment to be duly made to the land-owners mentioned in the award. Respondent No. 1 shall also take steps for extending other permissible benefits to the land-owners in the course of time. The communication of Respondent No. 1-CIDCO addressed to its advocate by E-mail in this behalf is taken on

record and marked 'X' for identification.

9. The Petition is disposed of.

(S.C. GUPTE, J.)

(A.A. SAYED, J.)