

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 3851 OF 2016

(Sudhakar s/o Pandharinath Kalode vs. State of Maharashtra thr. the Secretary, Ministry of Urban Development & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
ARUN D. UPADHYE, JJ.
MARCH 13, 2018.**

Heard Shri P.S. Khubalkar, learned counsel for the petitioner, Ms. A.R. Kulkarni, learned AGP for respondent Nos. 1 to 3 and Shri Anand Deshpande, learned counsel for respondent No. 4.

2. The petitioner owns and possesses field survey No. 215/1, ad measuring 0.81 H. at Mouza – Pimpalgaon, Tahsil – Hinganghatg, District – Wardha. It is not in dispute that in Development Plan for Municipal Area of Hinganghat under Section 31 of Maharashtra Regional & Town Planning Act, 1966, (hereinafter referred to as 1966 Act), on 1620 square meters land of the petitioner, 18 meters land is earmarked for road. This reservation is fastened since 2006 and the petitioner is, therefore, not in a position to develop his land.

3. It appears that he submitted a proposal for development and it has been turned down on 08.05.2015. Thereafter, he issued a notice under Section 49 of the 1966 Act on 30.09.2015 and he has received a communication dated 04.04.2016, informing him that adjacent owners have

used proposed 18 meter wide road for the purposes of getting layouts sanctioned in their properties, hence the request of the petitioner cannot be entertained.

4. We find the reason erroneous. If the respondents want to support adjacent owners, they have to recover the compensation payable to the petitioner from those owners and acquire 18 meters wide road land by following law. If that is not possible, then the consequences stipulated under Section 49(7) should be followed. The impugned communication dated 04.04.2016 shows total non application of mind. It is quashed and set aside.

5. We direct the respondents to take suitable decision on purchase notice dated 30.09.2015 within eight weeks from today. If possible, an opportunity of hearing shall also be extended to the petitioner.

6. Writ Petition is thus partly allowed and disposed of. However, there shall be no order as to costs.

JUDGE

JUDGE

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