

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6406 OF 2016

Nandlal S/o Hiralal Joshi
Age: 76 years, Occu.Senior Citizen
R/o Near Convent School,
Fort Side Road,Camp, Ahmednagar

PETITIONER

VERSUS

1. The State of Maharashtra
Through Chief/Principal Secretary
General Administration Department
Mantralaya, Mumbai-32
2. The State of Maharashtra
Through the Secretary,
Urban Development Department
Mantralaya, Mumbai-32
3. The Municipal Corporation,
Ahmednagar and The Town
Planning Authority under M.R.T.P.Act
- 3A. Shri Shrikrushna Bhalsing
Commissioner, The Municipal Corporation,
Ahmednagar
- 3B. Shri Balasaheb Wakle
Mayor, The Municipal Corporation,
Ahmednagar
4. The Collector, Ahmednagar
District: Ahmednagar
5. The Zilla Parishad, Ahmednagar,
Through its Chief Executive Officer,
Z.P. Ahmednagar

RESPONDENTS

Mr R.R. Sancheti, Advocate holding for Mr R.R.Mantri, Advocate for petitioner;
Mr S.G. Sangle, A.G.P. for respondent Nos. 1,2 & 4;
Mr V.S. Bedre, Advocate for respondent No.3;
Mr Gajanan Kadam, Advocate for respondent No. 3B;
Mr S.T. Shelke, Advocate for respondent No.5;

**CORAM : PRASANNA B. VARALE &
SMT.VIBHA KANKANWADI,JJ.**

DATED : 22nd OCTOBER, 2019

ORAL ORDER:

Heard Mr Sancheti, learned Counsel holding for Mr Mantri, learned Counsel for the petitioner.

2. On the backdrop of the grievance raised in the petition and the prayers made, particularly prayer clause (B) and (C), notice was initially issued by order dated 23rd June, 2016.

3. Then in series of orders, the Division Bench of this Court, time and again referred to the factual backdrop of the matter. In our detailed orders dated 7th October, 2019 and 16th October, 2019, the sequence of events was reiterated. At the cost of repetition, we made reference in brief about the material facts of the matter, namely; in the year 2009 itself, a proposal was submitted to the Municipal Corporation. In the year 2010, more precisely on 22nd September, 2010 a resolution was passed. Then there were proposals dated 30 May, 2012 and 11th

November,2016. The District Level Committee constituted under the Chairmanship of the Collector quantified the amount of compensation at the rate of Rs. 1,07,96,294/- and interestingly in the year 2010, a Resolution dated 22nd June, 2010 referred to quantification of amount of the said piece of land to the tune of Rs. 11,86,250/-.

4. The petitioner who is a senior citizen and filed the petition in the year 2016 at the age of 76 years, and now he is nearly 80 years of age and was required to go from pillar to post for availing the remedies, right from filing a suit to filing a petition in this Court. Time and again, this Court found that response of the respondents more particularly respondent Nos.3, 3A and 3B was not positive but it was only an approach of either passing of bug or killing of time.

4. On one occasion, it was submitted before this Court that a resolution is passed whereby the Corporation thought it fit to take guidance from the State Government. Considering all these facts, the Division Bench is left with no choice but to pass order on 16th October, 2019 on the statement made before this court that the special emergency meeting is called for on 22nd October, 2019 and the decision would be taken in the meeting and accepting this statement as an undertaking to this Court, this Court posted the petition for further consideration today, i.e. 22nd October, 2019.

5. Mr Kadam, learned Counsel appearing for respondent No.3B placed

on record a copy of the Resolution dated 22nd October, 2019. The copy of Resolution reads that the resolution number is 24 and upon discussion on the subject in the special meeting, the Corporation in its wisdom, passed a Resolution and it is resolved that the area to the extent of 719 Square meter in plot Nos. 1 and 2 in Survey No. 45/2B is not in the limits of the Municipal Corporation, Ahmednagar and the Corporation without raising an objection has permitted the petitioner to develop the land as per his choice. Though the Resolution is not worded in a way to give a clear picture but un-necessarily the Resolution is prepared in such a way that instead of resolving the controversy, it only provides a space of ambiguity and confusion for no reasons. If the said land is not within the limits of Corporation, there was no reason to incorporate it in any Resolution.

6. The wording that as the land is not within the limits of the Corporation, the Corporation is unable to either grant TDR or the cash compensation to the land owner. If it was the case of Corporation that it is in the limits of Corporation, there was no occasion for the Corporation to put further rider, such as non-grant of TDR or compensation.

7. Thus, we express our displeasure for keeping such an ambiguity in the Resolution when there was no reason to do this. As the Corporation now resolves to permit the petitioner to develop his land as per his choice, we are left with no choice but to allow the petition in terms of prayer clause (C). We further make it clear that the Resolution passed by the Corporation in the meeting dated 22nd

October, 2019 is accepted as an undertaking in this Court

8. Before parting, we must state that the sequence of events prompted us to impose costs on the respondent No.3 - Municipal Corporation, Ahmednagar. As stated above, the Resolution was passed in the year 2010 and it specifically states that the land of the petitioner is affected by the road in the DP Plan and the petitioner being land owner was called upon for discussion. Two proposals were submitted to the petitioner, one proposal was granting TDR in favour of petitioner and another proposal was, in alternate, to pay the compensation to the petitioner. Now, in this resolution a reference is made to the area of the quantification of the amount against compensation as per the ready reckoner. Then there was only exchange of communications.

9. The petitioner was approaching the authorities time and again and filed petition in this Court and in 2019, the Resolution is passed and guidance is sought from the State Government. Interestingly, in Resolution of 2010, a reference is made to the proposal for quantification of the amount. Resolution dated 14th August, 2019 opens with preface that the meeting of General Body is scheduled.

10. Considering the subject of payment of compensation to the petitioner to the tune of Rs. 1,07,96,294/- and then suddenly there is some-sault by the Corporation in the Resolution dated 22nd October, 2019 permitting the petitioner to develop his land without raising any objection on the ground that though the land of

the petitioner is not within the limits of the Corporation of Ahmednagar as stated above, the approach of the Corporation was only to see that old aged person, the senior citizen in his advanced age has to run from pillar to post and face litigations and litigations. As such, we impose costs of Rs. 50,000/- (Rs.Fifty Thousand Only) to the Corporation. The Municipal Corporation, Ahmednagar, to deposit the costs in this Court within six weeks from today.

[SMT.VIBHA KANKANWADI, J.]

[PRASANNA B. VARALE,J.]