

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

WRIT PETITION NO. 8197 OF 2018

Damodar Ramchandra Yadkikar .. Petitioner

Versus

The Chief Officer, Municipal Council
Jalna and another .. Respondents

Shri Amit A. Yadkikar, Advocate for the Petitioner.

Shri A. S. Deshpande, Advocate for the Respondent No. 1.

Ms. Vaishali N. Jadhav Patil, A.G.P. for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVAL, JJ.**

DATE : 22ND FEBRUARY, 2019.

FINAL ORDER :

. Mr. Yadkikar, the learned advocate for the petitioner submits that, the land of the petitioner was acquired. The respondents did not pay compensation. The petitioner had filed writ petition before this Court bearing Writ Petition No. 7229 of 2013. Same was decided on 11th November, 2014. This Court directed the respondents to determine the market value of the land and pay the compensation. The respondents filed Civil Application bearing Civil Application No. 8152 of 2015 contending that, the respondent is agreeable to pay compensation to the petitioner in the form of T.D.R. This Court

under order dated 26th February, 2016 disposed of the civil application, wherein present petitioner also agreed to accept the T.D.R. proposed by the respondent No. 1. The same was decided under order dated 26th February, 2016. The learned counsel submits that, the respondent No. 1 has given one TDR to the petitioner as per the relevant Development Control and Promotion Regulations and the rules. The petitioner is entitled for two TDR.

2. Mr. Deshpande, the learned advocate for respondent No. 1 submits that, at the time when the respondent No. 1 offered TDR to the petitioner, the petitioner was entitled for one TDR. The policy as existing then will have to be considered. As per the earlier notification the TDR applicable was one only.

3. We have considered the submissions canvassed by the learned counsel for respective parties.

4. The notification dated 06th February, 2016 more particularly clause 8 of the same is relevant. The clause 8 reads thus :

8.0 Effect of This Regulation :-

(a) Provision of Generation of TDR from these regulations shall not be applicable where DRC has been issued prior to

publication of these regulations. However, Utilization of such TDR shall be allowed as per these regulations only.

(b) These Regulations shall come into effect from publication of this Notification in *Official Gazette*.

5. Reading of the said clause, it is manifest that the provisions of generation of TDR from these regulations shall not be applicable where DRC has been issued prior to publication of these regulations. However, utilization of such TDR shall be allowed as per these regulations only. It is not disputed that, till 06th February, 2016, the petitioner was not issued with DRC/TDR of two. In view of that, the respondent No. 1 shall be governed by the notification dated 06.02.2016. As per clause 4.1.1 of the said notification a person is entitled for two times area of surrendered land, if the surrendered land is situated in non congested area. The petitioner's land is situated in non congested area, as such the petitioner is entitled for two times of the surrendered land.

6. In the light of the above, the respondent No. 1 shall allot the petitioner TDR/DRC of two times the area of surrendered land. The petitioner is already awarded TDR equal to surrendered land. The remaining TDR/DRC shall be allotted to

the petitioner within a period of two (02) months from today.
The writ petition is disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb / Feb. 19