

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

WRIT PETITION NO. 9498 OF 2018

Maruti Raoji Redekar

...Petitioner

vs.

The State of Maharashtra and Ors.

...Respondents

Mr. V.S. Kapse for the petitioner.

Mr. A.P. Vanarse, AGP for the State/Respondent Nos.1 to 3.

Mr. N.P. Deshpande for respondent No.7.

**CORAM : B. P. DHARMADHIKARI &
SANDEEP KASHINATH SHINDE, JJ.**

DATE : 04/09/2019.

P.C.:

Heard respective Counsel for some time.

2. Though, respondent No.5 is shown to be served, nobody appears for it. According to petitioner, respondent No.5 is Gadhinglaj Municipal Council. Respondent No.6 is Village Development Officer of Gram Panchayat. We do not wish to go into any disputed questions at this stage. Prima facie, petitioner has raised a sanctioned structure and it is abutting a State Highway. A road branching from State Highway travels on northern side of petitioner's compound.

According to petitioner, after that compound, there is a public road. Petitioner claims that respondent No.7 has attempted to obstruct that road more than once in past and on both occasions, that obstruction was removed.

3. Respondent No.7 submits that though in development plan, said portion of his property is earmarked for public road, it has still not being acquired and as such, there is no road which can be used by public. According to respondent No.7, it is still his private property.

4. Without prejudice, it is submitted that respondent No.7 has approached concerned authorities with request to acquire said land for D.P. road as per provisions of M.R.T.P. Act, 1966, but no steps have been taken so far. As nuisance takes place, respondent No.7 has no alternative but to prohibit users.

5. Learned AGP appearing for respondent Nos.1 to 3 is seeking time as instructions are still awaiting.

6. We find that on northern side, petitioner has raised some structure in which, shop blocks may have been constructed. Those shop blocks have access only on disputed road. Learned Counsel for respondent No.7 points out that in Sanction Letter, Petitioner has been asked to put a compound wall on that side and therefore, he cannot access alleged D.P.Road.

7. We find that commercial structure/shop blocks raised by petitioner cannot be beneficially used unless and until the D.P. Road is open. It appears that respondent No.7 has got his own structure on the opposite side and construction of D.P. Road may also yield some benefit to him. We, therefore, find that interest of justice can be met with by directing respondent No.2 to hear petitioner, respondent No.7 as also Gadhinglaj Municipal Council and to take appropriate steps in matter in time bound manner. From arguments advanced, it appears that respondent No.7 is interested in earliest payment of compensation in accordance with law.

8. We, therefore, direct parties to appear before

respondent No.2 Collector on 04/10/2019. Collector shall, on that day, peruse records and issue appropriate directions to respondent No.5 in accordance with provisions of law to acquire the property, if not already acquired.

9. We grant, petitioner as also respondent No.7, liberty to approach this Court again, if their grievance is not redressed within reasonable time.

10. With these directions, Writ Petition disposed of with no order as to costs.

11. We also permit Collector to pass suitable orders on removal of obstruction in the meanwhile, after hearing all concerned.

(SANDEEP KASHINATH SHINDE, J.)(B. P. DHARMADHIKARI, J.)