

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11459 OF 2018

M/s. Gajra Group

..Petitioner

Versus

Panvel Municipal Corporation,

Panvel, Dist. Raigad & Ors.

..Respondents

Mr. R. D. Soni a/w Tushar R. Momaiyesh, Mr. V. R. Kasle i/by Meena Rajesh Sharma, Advocates for the Petitioner.

Mr. A. M. Misal, Advocate for Respondent Nos.1 & 2.

Mr. K. S. Thorat, AGP for Respondent Nos.3 & 4 – State.

Mr. N. D. Sharma, Advocate for Respondent Nos.5 & 6.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.

DATE : 11th DECEMBER, 2019

P.C.

1] Heard learned counsel for the parties.

2] The Writ Petition concerns a plot of land bearing TPS No.364, ad-measuring 5553 sq.mtrs. at Panvel – Matheran Road, Panvel, District Raigad, Maharashtra. The subject land was mortgaged by the recorded owners thereof being Taherbhai Petiwala family. It was mortgaged to the Bombay Mercantile Co-operative Bank Ltd. There was a dispute between the family members. Suit No.2823 of 2001 was filed seeking partition. The Bank was impleaded as a defendant. The suit terminated in an order being passed appointing a Receiver with direction that the plot would be sold. The Petitioner

was the successful bidder and plot stood transferred to the Petitioner who paid ₹ 6.25 Crores.

3] The problem which the Petitioner faces is the stand taken by Respondent No.3 not to demarcate the boundaries of the subject plot and issuing a property card to the Petitioner showing therein the boundaries of the demarcated plot. The stand taken by Respondent No.3 is that in Public Interest Litigation No.115 of 2009 there is a dispute concerning the purpose for which the land could be put to use.

4] From the pleadings in the Public Interest Litigation it emerges that the Petitioner therein has pleaded that large tracks of lands were acquired for the Panvel Railway could not be used for a purpose other than the one stated in the notification pursuant whereto the lands were acquired.

5] Learned counsel for the Respondents rely upon an order dated August 16, 2013 passed in the Public Interest Litigation wherein status-quo has been directed to be maintained. We have perused the said order. It relates to only Plot Nos.365/1 and 365/2.

6] Learned counsel for Respondent No.3 states that the Additional Commissioner, Konkan Division has filed an affidavit in Public Interest Litigation No.115/2009 as per which there is a reference to the plot in question.

(1) -WP-11459-18.doc.

7] Suffice it to state that the issue raised in the Public Interest Litigation would concern the user of the lands which were acquired pursuant to the Award dated 01.01.1994 and 26.02.1996.

8] Since relief prayed in the Writ Petition is not to issue any direction concerning the land user but only to the demarcation of the boundaries and because no injunctive order has been shown to us passed in the Public Interest Litigation, we dispose of the Petition directing the 3rd Respondent to demarcate boundaries of the subject plot and issue property card in the name of the Petitioner; but recording a disclaimer in the property card. The disclaimer being that the issuance of the property card in the name of the Petitioner would be subject to such orders as may be passed in the PIL. As regards the Railway, we find that the Railway has not initiated any proceedings for being put in possession of the lands which were acquired under the Awards above noted. It appears that the Railway is taking shield of such orders which may be passed in the Public Interest Litigation. We record so for the benefit of the Railway authorities because they seem to be sleeping over the matter.

9] Needful shall be done by the Respondent No.3 within 12 weeks from today.

Balaji
G.
Panchal
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signed by
Balaji G.
Panchal
Date:
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SMT. BHARATI DANGRE, J

CHIEF JUSTICE