

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 851 OF 2019

M/s. Sweet Angel Home Builders **..Petitioner**
V/s.
Municipal Corporation of Greater
Mumbai and Others. **..Respondents.**

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Mr. J. Reis, Senior Advocate, a/w. Mr. Nigel Quraishy, I/b.
Mr. Krishnan Dushyant Harsh G. for the Petitioner.
Mr. Sukanta Karmakar, AGP, for Respondent-State.
Mr. Musharaj Shaikh, I/b. Mrs. Kiran Bhagalia, for
Respondent No.4-MMRDA.
Mr. Narayan Sahu, a/w. Mr. Shrinivasan Mudaliar, I/b.
Federal & Co. for Respondent No.5.
Mr. R. S. Apte, Senior Advocate, a/w Ms. Trupti Puranik, for
MCGM.
Mr. Nitin Karale, Maintenance & Surveyor (Oshiwara) City
Survey office, Andheri, present.
Sham Shinde, SE(Survey) K/W present.
Arvikar S. V., Asst. Engg. (Dev. Plan) G/W ward and Kamble
D. B. Sub. Engg. (Dev. Plan) K/W ward are present in the
court.

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CORAM : R. M. BORDE & N. J. JAMADAR, JJ.
DATE : MAY 02, 2019

PC :

1. The petitioner has requested to issue direction restraining respondent Nos. 1 to 7 from carrying out any activity in the property bearing CTS No.733/B, 734, CTS

No.737/8/2, situate at village Oshivara, Taluka Andheri (W), admeasuring 1436.9 Sq.mtrs. until amount of compensation is determined in accordance with provisions of law and is paid to the petitioner. Though the petitioner has requested for issuance of various directions, however, learned senior Counsel appearing for the petitioner, on instruction, states that purpose of presenting instant petition would be served in directing the respondent Municipal Corporation to determine the amount of compensation, with further direction to pay the same to the petitioner within specified time frame.

2. Our attention is invited to the order passed by the Division Bench of this Court in W.P.No.790 of 2015, decided on 01/02/2016. The petitioner has been granted liberty by the Court, while disposing of the petition, to make application in the prescribed form for carrying out survey of lands. It is further directed that, on making such application in the prescribed form together with payment of fees, the Survey Officer shall carry out survey within 2 months. Learned Senior Counsel appearing for the petitioner further informs that in pursuance of direction issued by this court, an application was tendered in the prescribed form to City Survey Officer with prescribed fees amounting to Rs.90,000/-. Learned AGP appearing for the State has placed on record a copy of communication issued by City

Survey Officer to one Joshwa Samson on 13/06/2016 recording therein that the process of conducting survey is already over and boundaries of the property have been fixed.

3. Learned Senior Counsel appearing for the Municipal Corporation, on instruction, states that, post fixation of boundaries by City Survey Officer, the Municipal Corporation shall have to draw road line with a view to ascertain the area utilized for construction of road. It is further informed that if the petitioner tenders a formal application requesting the Municipal Corporation to demarcate the road line and to carryout the necessary formalities, the Municipal Corporation would complete the process of fixation of road line within three months from the date of receipt of application.

4. The Municipal Corporation after drawing road line shall proceed to make request to Special Land Acquisition Officer-7 or Deputy Director, Town Planning, Mumbai for determination of amount of compensation of the acquired area.

5. The concerned authority shall determine the amount of compensation in respect of acquired area and communicate the same to the Corporation within a period of one month from the date of receipt of request from Municipal

Corporation.

6. The Municipal Corporation, thereafter, shall proceed to pay the amount so determined, after observing necessary formalities, to the petitioner within a period of five months from the date of receipt of report from the Special Land Acquisition Officer-7 or Deputy Director, Town Planning, Mumbai.

7. If the amount of compensation determined by the Municipal Corporation is not acceptable to the petitioner, it would be open for the petitioner to avail of remedies available in law for redressal of his grievance.

8. All the contentions raised by the parties in the instant proceeding are kept open for consideration, in an appropriate proceedings as and when occasion arises.

9. In view of the directions, as recorded above, the writ petition is disposed of.

(N. J. JAMADAR, J.)

(R. M. BORDE, J.)

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