

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

WRIT PETITION NO. 1737 OF 2016  
WITH  
NOTICE OF MOTION (L) NO. 116 OF 2019

|                               |   |             |
|-------------------------------|---|-------------|
| Smt.Pushpa Tiwari             | } | Petitioner  |
| versus                        |   |             |
| State of Maharashtra and Ors. | } | Respondents |

Mr.Drupad S. Patil for the petitioner.

Ms.G.R.Shastri-Additional Government Pleader for State.

Mr.Ram Apte-Senior Advocate with Ms.Vandana Mahadik for the Municipal Corporation.

Mr.Prasad Bhagat-Sub Engineer (Maintenance) P/S/Ward present.

CORAM :- S. C. DHARMADHIKARI &  
G. S. PATEL, JJ.

DATED :- JULY 3, 2019

P.C. :-

1. After having heard both sides on the earlier occasion, we passed the following order:-

“1. Let the senior counsel Mr.Apte appearing for the Mumbai Municipal Corporation take instructions as to whether the petitioners’ land has been taken over for laying a road alongwith the structures thereon and why no compensation has been paid till date.

2. We invited Mr.Apte’s attention to the two legal provisions and which enable the mode of laying the streets.

3. Chapter XI is titled as “Regulation of Streets” with sub-heading “Construction, Maintenance and Improvement of Public Streets”. Section 296 enables acquisition of premises for improvement of public streets. In the event, the new public streets are made, then, the power conferred and referable to Section 291 comes into play. If Section 298 or 299 are resorted to, then, there is Section 301 which mandates payment of the compensation. Now, that mandate having not been followed, this writ petition. Let Mr.Apte seek instructions and inform the Court on the next date as to when the compensation to be paid in terms of Section 301 would be released or paid after its computation.

4. We place this matter on the “Supplementary Board” on 3<sup>rd</sup> July, 2019.

2. After that order, today, Mr.Apte learned senior counsel appearing for the Municipal Corporation, on instructions, states that the Municipal Corporation will compute the compensation payable in terms of the applicable law, namely, the Mumbai Municipal Corporation Act, 1888 and sections 297 to 301 thereof and offer it to the petitioner. The payment would be made within a period of four weeks from the date the computation is made.

3. Needless to clarify that all applicable provisions can be invoked in the event the petitioner is aggrieved by the quantum of the compensation offered. It is entirely for the petitioner to receive the compensation under protest and thereafter take recourse to such provisions as are permissible in law, but surely not under the Land Acquisition Act, 1894, or the successor legislation.

4. Needless also to clarify that the petitioner can always say that while determining the quantum of the amount of compensation, the authority may take into consideration the fact that for an adjacent plot, the amount as near as market value or the market value was offered. All contentions limited to the above are kept open.

5. The writ petition is disposed of in terms of the above. In the light of the disposal of the writ petition, the notice of motion does not survive and stands disposed of as such.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)