

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

Amk

WRIT PETITION NO. 2140 OF 2018

Morarji Bhagwandas Shivji Sanatoriun Trust .. Petitioner
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. Prerak P. Choudhary for the Petitioner.

Mr. A. L. Patki, Addl. G. P. for Respondent Nos.1 to 3-State.

CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.
DATE : 10th DECEMBER, 2019.

P. C. :

1. Reply filed on behalf of 2nd Respondent is taken on record.
2. In view of reply filed, with consent of learned Counsel for the Petitioner and Respondent No.2, the Writ Petition is being disposed of.
3. The Petitioner is a public charitable trust owning property bearing City Survey No. 1/295, Malbar Hill Division at Walkeshwar Road, Mumbai. The issue concerns set-back area ad-measuring approximately 296.79 sq. mtrs. It was acquired by the Municipal Corporation of Greater Mumbai. This necessitates demarcation at site to identify the boundaries of the set-back area which would obviously result in the boundaries of the remaining land of the Petitioner being demarcated. The grievance in the Writ Petition is that in spite of repeated requests made to the Superintendent, City Survey and Land Records, the demarcation was not being affected.

4. The first prayer made in the Writ Petition is to direct the Superintendent, City Survey and Land Records to fix a date and on said date carry out a joint measurement of 296.79 sq. mtrs. land and the demarcated land be recorded in the record of City Survey and Land Records in the name of Municipal Corporation of Greater Mumbai and a correct property card be issued in the name of the Petitioner for the remaining land. Compensation payable thereafter be directed to be paid by the Municipal Corporation of Greater Mumbai.

5. The reply filed by Respondent No.2 in Court today brings out that necessary demarcation has been carried out on 21.09.2018. The plan prepared has been annexed with the reply and we find that the same delineates the set-back area and the remainder area.

6. Under the circumstances, prayer Nos.(i), (ii) & (iii) are satisfied.

7. As regards (iv) prayer, we note that the Municipal Corporation of Greater Mumbai has taken possession of the set-back area.

8. Thus, as regards the (iv) prayer, we direct the Municipal Corporation of Greater Mumbai to calculate the compensation payable to the Petitioner as of the date when the possession was taken over and pay the same together with interest @ ₹ 9% p.a. from the date possession was taken over till payment.

9. Needful shall be done by the Municipal Corporation of Greater Mumbai within 12 weeks from getting receipt of an authenticated copy of the present decision.

Arjun M.
Kadam

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]