

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

WRIT PETITION (stamp) NO.30808 OF 2019

Pushpa Suryakant Khanwilkar
and Ors.

...Petitioners

Versus

The State of Maharashtra and
Ors.

...Respondents

....

Mr. Atul Damle, Senior Counsel i/b. Mr. V.V. Salunke for the
Petitioners.

Mr. R.P. Kadam, AGP for the Respondent Nos.1 and 2.

Ms Pinaz Contractor for the Respondent Nos.3 to 5 and 7

Mr. Simil Purohit, Mr. Hemang Raythatha, Mr. Sreekanth Seegorla,
Miss Alisha Khan and Mr. Amol Bagat i/b. M/s. RMG Law Associates
for the Respondent No.6.

**CORAM : A.A. SAYED AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 17th JANUARY, 2020.

P.C.:-

The Writ Petition is filed by the Petitioners seeking the
following reliefs:-

- “a. This Hon’ble Court may be pleased to direct the
Respondent No.2 to make reference of the dispute in
respect of entitlement to receive compensation
amount towards acquisition of subject property i.e.
Survey No.89/0 admeasuring 11H-78.0R at village
Bhale, Tal.Mangaon, District: Raigad to the Civil Court

to the extent of claim of the Petitioners.

- b. This Hon'ble Court may be pleased to direct the Respondent No.2 not to make disbursement of the compensation amount in respect of subject property i.e. Survey No.89/0 admeasuring 11H-78.0R at village Bhale, Tal. Mangaon, District: Raigad to any party."

2. In earlier Writ Petition (stamp) No.19354 of 2019 filed by Vijaymala Vijaysingh Mahadik, while disposing of the Petition on 2/12/2019, we had passed the following order:-

ORDER

- (a) The Respondent No.2-The Competent Authority and the Sub-Divisional Officer, Mangaon, Raigad is directed to refer the dispute to the Reference Court as contemplated under Section 36 of the MIDC Act, 1961.*
- (b) The amount to the extent of 1/36th of the compensation shall be deposited by the Respondent No.2 with the Reference Court.*
- (c) The balance amount of the compensation will be disbursed in accordance with the award subject to filing of the usual undertaking.*

(d) We also record the undertaking of the learned Counsel for the Respondent Nos.3 to 7 that in the event, the other plaintiffs succeed in the Civil Suit, the Respondent Nos.3 to 7 shall bring back the amount.

(e) The Writ Petition to stand disposed of.

(f) All contentions of the parties are kept open.”

3. The Petitioner-Vijaymala in the earlier Petition had lodged her objections on 09/07/2018 i.e. within 05 days after the award was made on 04/07/2018. Taking a cue from the aforesaid order dated 02/12/2019, the present Petitioners also have approached this Court. The present Petitioners have however lodged their objections only on 03/12/2019 i.e. after the passing of the order dated 02/12/2019 in the earlier Writ Petition (Stamp) No. 19354 of 2019 filed by the Petitioner-Vijaymala. It is pointed out by the learned Counsel for Respondent No.6 and the learned Counsel for Respondent Nos.3 to 5 and 7 that the subject properties have changed hands several times since 6/10/1966 and mutation entries were also effected before the Respondent Nos.3 to 7 had purchased the same in the years 2014-2016 .

4. By the order dated 02/12/2019 in Writ Petition (stamp)

No.19354 of 2019, the rights of all the present Petitioners have been protected by recording the undertaking of Respondent Nos.3 to 7 therein that they shall bring back the amount in the event the other Plaintiffs (the Petitioners herein) succeed in the pending Civil Suit. Curiously, the Petitioners have not made any reference to the said Writ Petition and the order dated 02/12/2019 in the present Petition. We record the statement of the learned Counsel for the Respondent No.6 as well as the learned Counsel for the Respondent Nos.3 to 5 and 7 that the said Respondents shall also file a written Undertaking before the Civil Court in the pending Suit that in the event the Plaintiffs succeed in the Civil Suit, they shall bring back the amount alongwith interest as ordered by the Civil Court.

5. Except for the directions recorded above, in the facts and circumstances of the case, we are not inclined to grant any reliefs to the Petitioners. We make it clear that until the Undertaking as directed above is filed, the amount of compensation shall not be disbursed by the SDO.

6. With the aforesaid directions, the Petition to stand disposed of.

(ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)