

2.1. The Acquiring Body had initially before acquisition offered to the Petitioner an amount of Rs. 79,21,562.00 towards compensation for acquisition of his flat No. 11 by way of negotiations. However, the Petitioner had refused the compensation offered by the Acquiring Body. The Acquiring Body had offered identical amount of compensation to the owners of similarly placed flats in the same building. Thereafter the Acquiring Body had entered into a private agreements with the said other owners. The said owners were paid compensation as mutually agreed and thereafter the said flats were vacated and possession was handed over to the Acquiring Body.

2.2. Since the Petitioner refused to enter into the mutual agreement / private treaty with the Acquiring Body, the Acquiring Body requested the District Collector to acquire the above flat No.11 and the proportionate share in the land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "**the said Act**")

2.3. By Award dated 31.12.2020, Special Land Acquisition Officer (SLAO) No.16, Pune acquired the flat

No.11 and awarded market value of Rs. 57,12,522.00 declared the compensation of Rs. 57,12,522.00 as due and payable to the Petitioner.

2.4. Admittedly, the above compensation declared under the Award is lesser by Rs. 22,09,040.00 than the amount which was originally offered to the Petitioner by way of mutual agreement / private treaty as also which was paid to similarly placed flat owners who had accepted the said amount and vacated their respective flats.

3. Being aggrieved, Petitioner approached this Court and on 27.01.2021 this Court passed the following order :

1. The above writ petition is filed by the Petitioner, seeking following reliefs:

- (a) This Hon'ble court be pleased to issue writ of mandamus or any other writ or directions restraining the Respondents from taking possession of the suit property or any other arbitrary, high handed and illegal action under the said notices bearing No.LA-534/Mouje Kothrud Tal. Haveli/Sec. 37(1) Notice / 597 dated 31.12.2020 issued under Sec. 37 (2) and notice bearing No. LA-534 / Mouje Kothrud, taluka Haveli / Sec.38 Tabapurva Suchana/570 dated 31/12/2020 issued u/s 38 of the said Act by the Respondent No.2 till the Reference u/s 64 of the said Act preferred by the petitioner being finally adjudicated.
- (b) This Hon'ble Court be pleased to quash and set aside the said notices bearing No. LA-534/Mouje Kothrud Tal. Haveli/Sec.37(1) Notice/597 dated 31/12/2020 issued under Sec.37(2) and Notice bearing No. LA-534/Mouje Kothrud Tal. Haveli/Sec.38 Tabapurva Suchana/570 dated 31/12/2020 issued u/s 38 of the

said Act bearing No. LA-534/Mouje Kothrud Tal. Haveli/Sec.38 Tabapurva Suchana/570 dated 31/12/2020 issued by the Respondent No.2.

- (c) Pending the hearing and final disposal of this petition, this Hon'ble court be pleased to stay effect, implementation of notices dated 31/12/2020 bearing numbers LA-534/Mouje Kothrud Tal. Haveli/Sec.37(1) Notice/597 dated 31/12/2020 issued under Sec.37(2) and Notice bearing No. LA-534/Mouje Kothrud Tal. Haveli/Sec.38 Tabapurva Suchana/570 issued under section 38 of the said Act. The Respondent No.2 in any manner disturbed the possession of the Petition.
- (d) Ad interim relief in terms of Prayers (a) and (b) above be granted.
- (e) Any other just relief as the nature and circumstances of the present petition require by granted.
- (f) Cost of the petition be allowed."

2. Admittedly, the Petitioner has not accepted the award dated 31st December, 2020 on several grounds, including the ground that the compensation awarded to the Petitioner is on the basis of incorrect calculations and is therefore inadequate. It is submitted that consequently, from the compensation amount awarded to the Petitioner, it is impossible for the Petitioner to secure a flat of the same size as presently occupied by him.

3. Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 reads thus:

"64. **Reference to Authority.**– (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to

it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made—

- (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;
- (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.”

4. Since the remedy under Section 64 of the said Act is available to the Petitioner, and he has approached this Court without exhausting that remedy, we pass the following order:

- (i) The Petitioner shall within one week from today submit an Application to the Collector as required under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
- (ii) The Collector shall, upon receipt of the Application from the Petitioner, forthwith refer the same to the concerned authority.
- (iii) The concerned authority shall hear the Petitioner and decide the reference made by the Collector within a period of four weeks from the date of receipt of the Application from the Petitioner.
- (iv) The Collector/concerned authority shall not grant any adjournment/s to the parties, unless absolutely necessary.
- (v) The parties too shall not seek any adjournment/s unless absolutely necessary.
- (vi) Status-quo as of today, shall be maintained in respect of the subject property for a period of four weeks from

today.

(vii) If the order passed by the Collector/concerned authority is against the Petitioner, the order of status-quo shall continue for a period of one week thereafter.

(viii) All contentions of the parties are kept open.

5. The writ petition is accordingly disposed of."

4. An Interim Application is now preferred by the Acquiring Body for seeking partial modification of the above order. The reliefs prayed for by the Acquiring Body read thus :

- (i) Present application may allowed in its entirety;
- (ii) This Hon'ble Court may kindly be pleased to modify the order dated 27.01.2021 **Exhibit 'A'** to the extent of maintaining the status quo in respect of subject property.
- (iii) This Hon'ble Court be pleased to direct the Petitioner to handover the peaceful possession of his premises in view of the award dated 31.12.2020 failing which the applicant may kindly be permitted to take the possession by following due process of law.
- (iv) Pending the hearing and final disposal of present application, this Hon'ble Court be pleased to direct the Petitioner to handover the peaceful possession of his premises and his share in view of the award dated 31.12.2020 failing which the applicant may kindly be permitted to take the possession by following due process of law.

5. Admittedly the Petitioner has filed a Reference Application for seeking enhancement of compensation declared by the Award dated 31.12.2020 with the competent authority under the provisions of Section 64 of the said Act which will be considered on its own merit and in accordance with law. However, the Petitioner has not vacated his flat and is before this Court. The Acquiring Body is aggrieved because the public project is held up due to the hardened

stand of the Petitioner.

6. In view of the peculiar nature of dispute involved between the parties and in order to bring about the resolution thereof, which would be just, fair and reasonable, we requested the learned Advocate General to assist us. Accordingly, the learned Advocate General has appeared in the matter and made certain suggestions which are accepted by all the parties.

7. We too find the suggestions made by the learned Advocate General to be just and fair. Accordingly, we pass the following order:-

- (i) Petitioner is at liberty to withdraw the amount awarded vide Award dated 31.12.2020, i.e. Rs. 57,12,522.00 deposited with the District Collector, Pune and / or the concerned authority within one week from the date of uploading of this order;
- (ii) The Acquiring Body shall deposit the differential amount of Rs. 22,09,040.00 in this Court within a period of 3 weeks from the date of uploading of this order;
- (iii) Petitioner is allowed to withdraw the amount of Rs. 22,09,040/- deposited in this Court, upon giving a written undertaking that if the decision of the Reference Court

goes against him, he will return the amount of Rs. 22,09,040/- to the Acquiring Body.

- (iv) Upon depositing the amount of Rs. 22,09,040/-, the Petitioner shall handover the possession of the subject premises to the acquiring body within a period of one week.
- (v) The status quo order dated 27.01.2021 passed in the above Writ Petition, shall stand vacated upon the Acquiring Body receiving vacant possession of the said flat No. 11 from the Petitioner;
- (vi) Liberty to apply.

8. The above Interim Application stands disposed of in the aforesaid terms with no order as to costs.

[MILIND N. JADHAV, J.]

[S. J. KATHAWALLA, J.]

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by RAVINDRA
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2022.03.23
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