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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

2 WRIT PETITION NO.2682 OF 2021

**SUDHIR DNYANESHWAR KARDILE
VERSUS
THE STATE OF MAHARASHTRA THR SECRETARY AND
OTHERS**

....

Mr T. M. Venjane, Advocate for petitioner;
Ms R. P. Gaur, A.G.P. for respondent Nos.1 & 2
Mr A. V. Hon, Advocate for respondent Nos.3 & 4

**CORAM : RAVINDRA V. GHUGE
AND
S. G. DIGE, JJ.**

DATE : 2nd May, 2022

PER COURT:

1. By this petition, the petitioner has put forth prayer clauses (B), (C), (D) & (E), as under :-

“B) Issue writ of mandamus or any other appropriate writ or order against respondents to complete the acquisition proceedings and to pass award U/s. 25 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in respect of acquired plot bearing Plot No. 10 adm. 1200 sq.ft. in Survey No. 31/A situated at Kanheri, Tq. & Dist. Latur of the petitioner as described in Para 3 of this writ petition, which is used to construct the 15 mtr. width road in Latur City Sanctioned Development Scheme.

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C) Issue Writ of mandamus of any other appropriate writ or order against respondents that they shall pass Rehabilitation and Resettlement Awards for the benefit of petitioner and his family, being affected family, U/s. 31 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect acquired plot of the petitioner as described in Para no. 3 of this writ petition, which is used to construct the 15 mtr. width road in Latur City Sanctioned Development Scheme.

D) The Respondents be directed to pay the rental compensation to the petitioner from 30.11.2016 till the payment of award amount as per Government resolution.

E) Pending hearing and final disposal of the writ petition, the respondent No. 2 District Collector Latur and respondent No. 3 Municipal Corporation, Latur, be directed to pay to the petitioner 80% compensation of the acquired plot, within a period of four weeks from today as per prevailing ready reckoner rate.”

2. The petitioner is the owner of plot No.10, admeasuring 1200 sq.ft. in Survey No.31/A, which is a non-agricultural piece of land, situated at Kanheri, Tq. and Dist. Latur. The petitioner had purchased the said plot by a registered sale deed No.3888-2016 on 08/06/2016. The mutation entry No.5978 has been sanctioned.

3. The respondent-Corporation is said to have utilized a portion of the said land for the purpose of constructing a 15 mtrs.

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width road under the Latur City Sanctioned Development Scheme, Dist. Latur. The petitioner was intimated by a notice issued by respondent Nos.3 and 4, stating that the possession of the plot has been acquired on 30/11/2016 on private negotiation. The petitioner was assured of compensation within the time prescribed under the Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Settlement Act, 2013 (for short 'the 2013 Act').

4. Pursuant to the notice dated 30/11/2016, the petitioner tendered all the documents to respondent Nos.3 and 4. However, till today, not a single penny has been paid to the petitioner. He has issued a legal notice on 30/09/2019 to the District Collector, the Commissioner of the Municipal Corporation and the Town Planning Officer. He has stated in the notice that, if he is not paid compensation, he would approach the Court for appropriate orders.

5. The learned Advocate for the Corporation submits on instructions, that the Corporation will offer TDR to the petitioner in lieu of monetary compensation. If the petitioner agrees, this issue can be resolved by offering TDR. He does not have

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instructions to state that the Corporation would pay monetary compensation to the petitioner.

6. It is quite a peculiar situation considering the above factors. A land of the petitioner has been acquired and a new road has already been laid. The open plot, on which the petitioner intended to construct his residence, is taken away by the authorities. It is contended that the right of the petitioner enshrined under Article 300A, has been infringed.

7. The learned Advocate for the petitioner submits on instructions that, the petitioner is in need of money and he does not pray for TDR. He derives no advantage or benefit by agreeing to accept the TDR. In the private negotiations, the Corporation had assured of payment of monetary compensation. He, therefore, prays that this petition be allowed in terms of prayer clause (B).

8. It is well settled that, a person cannot be deprived of his immovable property, without following the due process of law. The Corporation has acquired the land of the petitioner. A new road has already been laid. Monetary compensation is not being paid. TDR is being offered, which is not acceptable to the

petitioner.

9. In view of the above, this petition is allowed in terms of prayer clauses (B), (C) and (D).

10. Needless to state, the entire proceedings under the 2013 Act, shall be completed, as expeditiously as possible and in any case, on or before 30/04/2023.

(S. G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)

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