

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9027 OF 2021

Mandar Shashikant Jadhav and others. ... Petitioners.

V/s.

The Union of Indian and others. ... Respondents.

Mr.D.G.Dhanure for the Petitioners.

Mr.Bhushan Deshmukh with Vipul Bilve and Kunal Kirpalani i/b.

Mulla & Mulla & Craige Blunt & Caroe for Respondent No.2.

Mr.B.B.Sharma with Mr.Rajeev Mane for Respondent No.3.

Digitally
signed by
SANJAY
KASHINATH
NANOSKAR
Date:
2022.09.12
19:08:24
+0530

CORAM : **NITIN JAMDAR AND
SHARMILA U. DESHMUKH, JJ.**

DATE : **6 September 2022.**

P.C. :

Heard the learned counsel for the parties.

2. By this petition, the Petitioner four in number are seeking a direction to Respondent No.1 - Union of India, Ministry of Chemicals and Fertilizers and Respondent No.2- Hindustan Organic Chemicals Limited to give their No Objection Certificate for construction or developing new access road to village- Vaveghar admeasuring 24 meters width and 120 meters length from land Survey No.55/10 situated at village- Turade, taluka- Panvel, district- Raigad. The grievance of the Petitioners is that they do not have

proper access to their lands and a meeting of Gram Panchayat was held on 10 May 2010 wherein a resolution was passed to construct a road. It is their grievance that the proposed road goes through the lands of Respondent Nos.1 and 2 who are not giving their No Objection Certificate because of which the Petitioners and other villagers are suffering hardship.

3. A reply affidavit is filed on behalf of Respondent No.3- City and Industrial Development Corporation of Maharashtra Limited (CIDCO) through the Associate Planner. The Respondent No.3 in its affidavit has stated as under:

“6. I say that the villages Turade and Vaveghar fall in Phase II of the sanctioned Development Plan of Naina. In the development plan this area is relatively far from present developed area and transportation facilities are also not very efficient. The area is assumed to have a low population growth and Average Annual Growth Rate is 6% and continues to be around 5% till planned period. CIDCO does not plan to provide urban infrastructure in this area during current plan period 2014-2034. Further in phase-II, intensive development is not expected. Detailed infrastructure plan has not been prepared for phase-II except for transport network and few other mandatory facilities such as schools, playgrounds and parks.

7. The land bearing survey no. 55/10 of Village Turade through which a proposed 24m wide road is shown under reservation in the sanctioned development Plan of NAINA. The said proposed road falls in Phase-II of the Development Plan and expected to be taken for execution in phase II after the plan period 2014-2034. A copy of the said plan is hereto annexed and marked “Exhibit-3”.

8. I say that CIDCO as planning authority will develop the proposed 24m wide road as per the reservation shown in the sanctioned development plan of NAINA in Phase-II. If the same is carried by the Petitioners at their own costs and expenses. the Petitioners will be required to submit a proposal giving requisite particulars including details of alignment of the road to be developed, partly or fully, full disclosure about funding of the project etc. to CIDCO as planning authority of NAINA for its NOC/approval before start of the said project.”

Therefore, the stand of Respondent No.3 is that though the road is shown as reserved in the development plan of the area, currently it is not a pressing need and, according to CIDCO, when such a need arises, necessary steps would be taken.

4. Respondent No.2 has filed a reply opposing the petition considering the locus of the Petitioners and the *bona fides*, Respondent No.2 contends that the area through which the road is sought to be constructed forms part of green belt for maintaining the surrounding areas of the chemical plant environmental friendly and pollution free. Learned counsel for Respondent No.2 submits that the petition is motivated and no relief as sought be granted.

5. We note that except Petitioner No.4 the other Petitioners are not residing in the said village but in urban area of Kharghar and New Panvel. Be that as it may, we have proceeded to examine the Petitioners' grievance further. The situation that emerges is that the proposed road is shown under reservation in the

sanctioned development plan and, therefore, the claim of the Petitioners for construction of road cannot be considered as totally fanciful. When it is to be implemented, whether there is immediate need are the matters within the domain of the planning and executing authority. All that we can say is that since the prayer of the Petitioners for a road to the villagers is made, we have no doubt, when the issue arises for consideration, the authorities will look into the same with seriousness. Apart from this, we do not intend to issue any directions. We have not mandated any road and we have made these observations only because the road is shown in the development plan as of today.

6. Writ petition is accordingly disposed of.

(SHARMILA U. DESHMUKH, J.)

(NITIN JAMDAR, J.)