

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

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PRANESH
NANDIWADEKAR

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WRIT PETITION NO.2604 OF 2021

Ritu Vijay Poddar

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr.Vaibhav Sugdare a/w Mr.Omkar G. Nagwekar for the petitioner.

Mr.S.B. Kalel, AGP for the respondent nos.1, 3, 4 & 5.

Mrs.Prabha U. Badadare for the respondent nos. 6 to 11.

**CORAM : R.D. DHANUKA AND
S.M. MODAK, JJ.**

**DATE : 5th January 2022
(Through video conferencing)**

P.C.:-

. Learned counsel for the petitioner seeks leave to delete the respondent no.2 from the cause title of the writ petition. Leave is granted. Amendment to be carried out during the course of the day. Re-verification is dispensed with. Learned AGP waives service for the respondent nos.1, 3, 4 & 5. Mrs.Badadare, learned counsel waives services for the respondent nos.6 to 11. By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for a writ of certiorari inter alia praying

for quashing and setting aside the impugned order dated 21st April 2021 passed by the respondent no.5 and seeks further direction against the respondent no.5 to make the payment of compensation to the petitioner as per the joint application filed by the petitioner and the respondent nos.6 to 8 dated 3rd March 2020.

3. Admittedly the final notification of acquisition has already been published by the respondent no.5 in the month of August 2019. According to the said notification, certain amounts towards compensation were quantified by the respondent no.5 in favour of the respondent nos.6 to 8. The respondent nos.6 to 11 executed a partition deed of their respective lands out of Gut No.3 on 5th July 2019. The said partition deed was registered on 8th July 2019. The respondent nos.6 to 11 entered into sale deed which is registered with Sub Registrar, Class-I, Shahapur, District Thane on 3rd January 2020. After the date of final notification, the petitioner and the respondent nos.6 to 11 presented a joint application requesting to pay the amount of compensation to the petitioner as per the compromise arrived at between those parties.

4. Learned counsel for the petitioner states that in view of the said compromise between the parties and in view of there being a joint

application filed by the petitioner and the respondent nos.6 to 11, the respondent no.5 be directed to pay the amount of compensation payable to the respondent nos.6 to 11 as per the compromise arrived at between the parties to the petitioner.

5. Mrs.Badadare, learned counsel for the respondent nos.6 to 11, on instructions, states that her clients have no objection if the amount payable to her clients are paid to the petitioner in accordance with the said compromise deed. Statement is accepted.

6. Mr.Sugdare, learned counsel for the petitioner invited our attention to the judgment of the Hon'ble Supreme Court in case of ***Shiv Kumar and Anr. Vs. Union of India & Ors., (2019) 10 SCC 229*** in support of the submission that the petitioner who has purchased the land is though not entitled to oppose the acquisition is entitled to claim compensation i.e. payable to the original owner in view of the compromise deed.

7. In our view, the said judgment of the Hon'ble Supreme Court in case of ***Shiv Kumar and Anr. (supra)*** would assist the case of the petitioner.

8. Mr.Kalel, learned AGP for the respondent nos.1, 3, 4 & 5 however, opposes the relief sought by the petitioner on the ground that the transaction between the petitioner and the respondent nos.6 to 11 was subsequent to the date of final notification issued by the respondent no.5. Learned AGP however, could not distinguish the judgment of the Hon'ble Supreme Court in case of ***Shiv Kumar and Anr. (supra)***.

9. In view of the fact that there was a joint application made by the petitioner and the respondent nos.6 to 11 on the ground that the matter was settled as per the compromise arrived at between the parties and jointly requested that amount of compensation payable to the respondent nos.6 to 11 under the said acquisition proceedings be paid to the petitioner and in view of the statement made across the bar, on instructions, giving no objection to pay the amount of compensation to the petitioner, we are inclined to direct the respondent no.5 to pay the amount of compensation payable to the respondent nos.6 to 11 to the petitioner under the said acquisition proceedings. It is ordered accordingly. The amount of compensation shall be paid to the petitioner within four weeks from today. It is made clear that the respondent nos.6 to 11 will not seek any separate compensation from the respondent no.5 which is directed to be paid to the petitioner by the respondent no.5.

10. Writ petition is allowed in aforesaid terms. Rule is made absolute accordingly. Parties to act on the authenticated copy of this order. No order as to costs.

S.M. MODAK, J.

R.D. DHANUKA, J.