

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8808 OF 2021

Mr. Vitthal Gangaram Chintakindi ... **Petitioner**
Versus

The State of Maharashtra & Ors. ... **Respondents**

Dr. Ramdas P. Sabban, Advocate for the Petitioner.

Mr. Abhijit P. Kulkarni Advocate for the Respondent
No.1/PMC.

Mr. R.M. Shinde-AGP, for the Respondent Nos.2 and 3/
State.

**CORAM: S.V. GANGAPURWALA &
M. G. SEWLIKAR, JJ.**

DATED : APRIL 18, 2022

P.C.

1. We have heard Mr. Sabban, learned Advocate for the petitioner and learned Advocate for the Municipal Corporation.

2. It appears to be undisputed fact that land of the petitioner admeasuring about two gunthas is acquired by respondents for construction of road. The petitioner already had approached this Court vide earlier Writ Petition No. 11118 of 2018. The Division Bench of this Court on March 19, 2019 passed the following order :

“1. After hearing both sides and since the petitioner says that he has lost the portion of the property where a development plan road (DP Road) and 18 meters in width had been constructed, he would now want compensation for the deprivation of his right, title and interest in the immovable property. He says that he has annexed to this petition all the documents which would enable the

Municipal Corporation to process his claim for compensation.

2. After this writ petition was heard for some time, we direct that the Pune Municipal Corporation shall proceed to consider this petition as a request of the petitioner and additionally, the petitioner will provide the documents at Sr. Nos. 8, 9 and 13 at page 69 of the paper book. On such documents being provided, the claim for compensation be processed and a decision be taken in accordance with law.

3. With this direction, the writ petition is disposed of, but we direct that the decision shall be taken within a period of four weeks from the date of furnishing these documents.”

3. Further, it appears that the petitioner has filed Contempt Petition No. 507 of 2019. This Court on 3rd January 2020 has passed the following order :

“ The learned Advocate appearing on behalf of the Municipal Corporation, on instructions, undertakes to deposit the compensation amount payable to the Petitioner as per ready reckoner along with interest from the date of dispossession of the Petitioner by Wednesday, 8th January, 2020. The statement is accepted. All contentions of the parties are kept open.

2. Stand over to 10th January, 2020.”

4. Subsequently, on September 3, 2020, the Division Bench of this Court in the said contempt petition passed the following order :

“1. As per the order passed by this Court dated 3rd January, 2020, the Corporation has deposited a cheque of Rs.87 Lakhs as monthly compensation for the Petitioner’s land which was acquired in the year 2015.

2. Today, an application is made on behalf of the Petitioner to withdraw the said amount of Rs.87 lakhs. The Learned Advocate appearing for the Corporation states that there was a mistake in calculating the said amount and the amount of Rs.78,29,312/- is approved by the standing

Committee of the Corporation. In view thereof, subject to the proceedings filed/to be filed by the Petitioner seeking higher compensation, the Registrar, Appellate Side, shall handover an amount of Rs.78,29,312/- to the Petitioner alongwith the interest accrued if any within a period of two weeks from today. Stand over to 15th September, 2020.

3. This order will be digitally signed by the PA/PS of this Court. All concerned will act on production by fax or email of a digitally signed copy of this Order.”

5. Thereafter, the petitioner filed application for withdrawal of the amount of Rs.87,00,000/-. This Court on October 20, 2020 has passed the following order :

“1. We have perused the order dated 3rd September, 2020. Paragraph 2 of the order is reproduced hereunder :-

“2.Today, an application is made on behalf of the Petitioner to withdraw the said amount of Rs.87 lakhs. The Learned Advocate appearing for the Corporation states that there was a mistake in calculating the said amount and the amount of Rs.78,29,312/- is approved by the standing Committee of the Corporation. In view thereof, subject to the proceedings filed/to be filed by the Petitioner seeking higher compensation, the Registrar, Appellate Side, shall handover an amount of Rs.78,29,312/- to the Petitioner alongwith the interest accrued if any within a period of two weeks from today. Stand over to 15th September, 2020.”

2. Pursuant to the above order, the Pune Municipal Corporation has determined the compensation which according to them is payable to the Petitioner.

3. The Petitioner filed the above Contempt Petition which was before us on 3rd September, 2020. On that day, the Petitioner requested the Court to permit him to withdraw the amount of Rs.87 Lakhs deposited by the Corporation in Court. The Learned Advocate appearing for the Corporation informed us that there was a mistake in calculating the said amount and an amount of Rs.78,29,312/- is payable to the Petitioner which is approved by the standing Committee of the Corporation. It was also submitted by the Corporation that they have no objection if the

Petitioner is allowed to withdraw an amount of Rs.78,29,312/-. In view thereof, after recording the said statement of the Corporation, we have in our order dated 3rd September, 2020 further recorded that "In view thereof, subject to the proceedings filed/ to be filed by the Petitioner seeking higher compensation, the Registrar, Appellate Side, shall handover an amount of Rs.78,29,312/- to the Petitioner alongwith the interest accrued if any within a period of two weeks." Subsequent to our Order dated 3rd September, 2020, the said amount of Rs.78,29,312/- has already been withdrawn by the Petitioner. The question therefore of granting any further reliefs to the Petitioner in the above Contempt Petition, does not arise and the Petitioner is at liberty as recorded in our order dated 3rd September, 2020 to file proceedings seeking higher compensation. The above Contempt Petition is accordingly disposed of.

4. This order will be digitally signed by the PA/PS of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

6. The present petition is filed seeking directions against the respondents to award the compensation as provided under Section 26 of the Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 (hereinafter referred to as, "**the Act, 2013**") i.e. ready reckoner rates prevailing as on 12th May 2020.

7. The learned Advocate for the petitioner submits that the valuation of the property has to be made as on the date of Notification under Section 11 of the 2013 Act. The Notification under Section 11 of the Act, 2013 is not yet issued. As such, the Special Land Acquisition Officer (hereinafter referred to as, "**SLAO**") be directed to take up the acquisition proceedings by issuing Notification under Section 11 of the Act, 2013.

8. The learned Counsel for the Municipal Corporation submits that as directed by this Court in the earlier round of dispute, the Standing Committee of the Municipal Corporation calculated the amount of compensation payable to the petitioner as per the valuation of the property and the amount was also deposited in the Court. The petitioner has withdrawn the entire amount. The amount of compensation includes the interest from the date of dispossession of the petitioner till the payment upon the valuation of the property.

9. The learned Counsel for the respondent/Municipal Corporation submits that the valuation of the property was made by the Land and Estate Department of the Municipal Corporation and approved by the Standing Committee.

10. We have considered the submissions. The appropriate Authority i.e. SLAO has to calculate/arrive at the valuation of the property, if the property is not being acquired by private negotiations. It appears that the petitioner is not agreeable to the amount of compensation and he has withdrawn the amount deposited by the Municipal Corporation.

11. In view of that, as per Section 126(1)(c) of the MRTP Act, the only recourse available to be resorted to is the acquisition proceedings. The acquisition proceedings shall be commenced by issuance of declaration under Section 19 of the Act, 2013 read with Section 126 of the MRTP Act.

12. The possession of the land of the petitioner was taken

by the Corporation in the year 2014. The Corporation pursuant to the orders of this Court as reproduced (*supra*) has also paid the amount of compensation, which according to it is true and correct valuation. The petitioner has withdrawn the said amount of compensation.

13. The valuation of the property as on date the petitioner was dispossessed will have to be considered by the SLAO to determine the market value of the property. No doubt, the petitioner will be entitled to other statutory benefits such as interest from the date of dispossession and payment of solatium amount.

14. The SLAO shall also consider about the payment of statutory benefits to the petitioner. The valuation shall not be less than the amount as already paid by the Municipal Corporation. The writ petition is disposed of with a direction that the notification shall be issued preferably within three months from today and the acquisition proceedings shall be completed within one year thereafter.

15. Writ petition is accordingly disposed of. No costs.

(M. G. SEWLIKAR, J.)

(S.V. GANGAPURWALA, J.)

Digitally signed
by RAJU
DATTATRAYA
GAIKWAD
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