

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

WRIT PETITION NO.8714 OF 2021

Anand Developers

.. Petitioner

v/s.

Municipal Commissioner

Pimpri Chinchwad Municipal

Corporation & Anr.

.. Respondents

**WITH
INTERIM APPLICATION NO.18985 OF 2022**

Mr. Surel S. Shah i/b. Suhas S. Deokar for the petitioner.

Mr. Sanjiv A. Samant a/w Abhishek S. Matkar for the
applicant/Intervenor.

Mr. Deepak R. More a/w Shivram Gawade for respondent nos.1 & 2-
PCMC.

CORAM : R.D. DHANUKA &

KAMAL KHATA, JJ.

DATED : 13TH OCTOBER, 2022.

P.C. ,

1. We have heard the learned counsel for the parties. Mr. Shah,
learned counsel for the petitioner tenders a Chart showing the
description of the three properties. It is not in dispute that one of
the properties is owned by the petitioner whereas another

property is owned by the applicant in the intervention application. Land admeasuring 4 Are i.e. bearing Survey no.56/3/15 belongs to a third parties who according to the petitioner as well as the applicant, are the relatives of the petitioner.

2. The dispute has arisen between the parties in view of the additional conditions imposed by the Municipal Corporation in the Commencement Certificate to provide access so as to obviate any land-lock on the plot of the applicant.
3. Mr.Shah, learned counsel for the petitioner during the course of his arguments pressed into service Section 205 of the Maharashtra Municipal Corporation Act read with Sections 209 and 210 in support of his submission that the Municipal Corporation cannot impose conditions, at this stage, to construct a DP Road so as to obviate any land-lock situation on the plot of the applicant.
4. We are of the prima facie view that no such conditions can be imposed by the Municipal Corporation at this stage when the

petitioner has already carried out substantial construction.

5. Be that as it may, under Section 205, the Commissioner, when authorised by the Municipal Corporation in this behalf, may at any time agree with any person for the making of a street for public use through the land of such person, either entirely or partly at the expense of such person and partly at the expense of the Corporation, and that such street, on completion, shall become, a public street, which shall vest in the Corporation.
6. Even if any access is required to be provided to the applicant in the Interim Application by virtue of such access, if any plot is affected, the owner is required to be paid compensation after following the procedure of acquisition or by a private agreement.
7. Mr. Sawant, learned counsel for the applicant states that his client should be permitted to carry out construction of 6.5 meter DP Road so as to obviate any land-lock situation on his client's plot of land. However, it is a common ground that if such a permission is granted to the intervenor, the owner of the plot bearing Survey no.56/3/15 admeasuring 4 Are would be seriously prejudiced.
8. We accordingly direct the petitioner to implead the owners of the

said plot as party respondent within three days from today. Papers and proceedings shall be served upon the newly added party within three days thereafter.

9. Newly added party shall make a statement before this Court whether they are agreeable to the construction of 6.5 meter road so as to obviate any land-lock situation on the plot of the intervenor and, if so, on what terms and conditions.

10. The parties are also at liberty to explore the possibility of resolving the issue by private agreement or for a acquisition of the said plot bearing Survey no.56/3/15 so as to enable the Corporation to acquire the said portion of the land for the purpose of carrying out construction of 6.5 meter road to obviate any land-lock situation on the plot of the intervenor.

11. Ms. More, the learned counsel for the Municipal Corporation seeks time to take instructions and to make a statement before this Court as to whether pending the resolution of these issues, the application of the petitioner for issuance of Part Occupation Certificate can be granted or not and, if it can be granted, on what terms.

12. At this stage, Mr. Shah learned counsel for the petitioner and Mr. Sawant, learned counsel for the intervenor agree to have a meeting in the office of the Municipal Corporation with Executive Engineer, Building and Permission Department of the concerned area, and to make their respective suggestions so as to make an effort to resolve the issues as far as possible.

13. If the parties arrive at any reasonable solution, they are at liberty to apply for the early listing. Place the matter on board for **“admission”** on 24th November, 2022.

14. Interim Application no.18985 of 2022 is allowed. Petitioner is directed to implead the applicant as one of the respondents in the writ petition. Amendment to be carried out within one week from today. Amendment shall also be carried out in the copy supplied to the respondents’ Advocate. Copy of the amended petition shall be served upon the newly added parties within three days from the date of carrying out amendment.

(KAMAL KHATA, J.)

(R.D.DHANUKA, J.)