

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.3262 OF 2020

- PETITIONERS :-
1. Gayatridevi Omkarmal Yaduka, aged about 73 years, Occup.Household, R/o Plot No.7, Surya Nagar, Nagpur.
 2. Santoshkumar Omkarmal Yaduka aged about 61 years, Occup.Business, R/o Wardhamannagar, Nagpur.
 3. Shri.Bijaykumar Omkarmal Yaduka, aged about 58 years, Occup.Business, R/o Wardhamannagar, Nagpur.
 4. Shri.Birendrakumar Omkarmal Yaduka, aged about 55 years, Occup. Bkusiness, R/o Plot no.7, Surya Nagar, Nagpur.

...VERSUS...

- RESPONDENTS :-
1. Town Planning Scheme No.1, Nagpur smart and sustainable city development corporation limited, through its Arbitrator, having office at Municipal Corporation Civil Lines, Nagpur 440010.
 2. Town Planning Scheme No.1 Nagpur Smart and Sustainable City Development Corporation Limited Nagpur through it's Chief Executive Officer, having office at 1st Floor Shree Chhatrapati Shivaji Maharaj Administrative Building, Civil Lines, Nagpur-440 008.
 3. Municipal Commissioner, Nagpur.
 4. Assistant Director of Town Planning, Nagpur.

5. District Superintendent of Land Records,
Nagpur.

6. Sub-Divisional Officer, Nagpur.

Ms. Mallika Goenka h/f Mr. S.P. Bhandarkar, counsel for the
petitioners.

Mr.S.M. Puranik, counsel for respondent No.2.

Mr.T.A.Mirza h/f Mr. A.M.Quazi, counsel for respondent No.3.

Mr.N.S.Rao, AGP for respondent Nos. 4 to 6.

**CORAM : SUNIL B.SHUKRE &
G.A. SANAP, JJ.**

DATE : 23.09.2022.

O R A L J U D G M E N T (Per :Sunil B.Shukre, J.)

(1) Heard.

(2) Rule. Rule made returnable forthwith. Heard
finally by consent of the learned counsel appearing for the parties.

(3) The land of these petitioners and some other
persons having total area of 16678 sq.mtrs. bearing Khasra
No.47/2 is stated to be under development by respondent No.2
and it is the concern of the petitioners that since, the respondent
No.2 are not initiating any steps like measuring the area, which is
to be acquired for the purpose of development, prayer is made for
issuing directions regarding making of proper demarcation and

following of procedure of law in acquiring the land proposed to be developed.

(4) These concerns of the petitioners, in our view, are already addressed appropriately by the respondent No.2 in the affidavit, filed by it on 24.02.2021 and the additional affidavit subsequently filed. Paragraph No.12 of the additional affidavit dated 24.02.2021 being relevant in this regard is reproduced as under:

12. It is submitted that as per records of the answering respondent, the total land in Khasra no.47/2 is 16678 sq.mtrs. Showing in the name of Mangalmurti Gruhnirman Sahakari Sanstha, Gayatridevi A. Yaduka, Santosh A. Yaduka, Vijaykumar A. Yaduka and Viredra A. Yaduka out of the total area of the said land the land admeasuring 3011 sq. mtrs.i.e. only 18.06% of the land out of 40% of the land which vest with the planning authority on approval of the draft Town Planning Scheme as per section 68(2) of Maharashtra Regional & Town Planning Act 1966 & subsequently after approval of Preliminary TPS per section 88 of Maharashtra Regional & town Planning Act 1966 is and will be acquired from the entire land where the land of the Petitioner's is also located, for the smart city project and presently the land for the purpose of development of roads is being taken in possession under TPS and the said acquisition is as per the provisions of Maharashtra Regional and Town Planning

act 1966 and Rehabilitation and Resettlement Policy of NSSCDCL. It is submitted that the project affected persons is given increased FSI on his remaining buildable land and therefore compensation in terms of right to fair compensation is not given as the increased FSI and developed land is itself is computed as compensation. Because of various developments carried out by the planning authority in the TPS area, the value of original land owned by the persons like petitioners is likely to go up and that will also be to the benefit of the petitioners.”

(5) All the concerns of the petitioners are adequately taken care of by the above referred assurances and submissions made by respondent no.2. Therefore, we find that the grievances of the petitioners have been substantially redressed by the response of respondent No.2. The petition is therefore, disposed of in terms of affidavit in reply dated 24.02.2021 and also the additional affidavit dated 29.10.2021. Needless to say that due procedure of law shall be followed by the respondents in acquiring the land in question.

Rule is made absolute in above terms. No costs.

(G.A.SANAP,J)

(SUNIL B. SHUKRE,J)