

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3935 OF 2022

1. Kailas Barikrao Jagtap
Age:45, Occupation: Business
Address: 22/2, Jamuna Nivas,
behind Khandoba Mandir,
Pimple Gurav, Pune - 411061.

2. Bhikabai Barikrao Jagtap
Age:65, Occupation: Housewife
Address: 22/2, Jamuna Nivas,
behind Khandoba Mandir,
Pimple Gurav, Pune - 411061.

3. Vilas Barikrao Jagtap
Age:42, Occupation: Farming
Address: 22/2, Jamuna Nivas,
behind Khandoba Mandir,
Pimple Gurav, Pune - 411061.

.Petitioners

Vs.

1. Pimpri Chinchwad Municipal Corporation
A body constituted under the
provisions of Maharashtra Municipal
Corporation Act, 1949,
Through its Commissioner,
Pimpri Chinchwad Municipal Corporation,
Pimpri, Dist. Pune - 411018.

2. Deputy Director,
Town Planning Authority,
Pimpri Chinchwad Municipal Corporation
Pimpri, Dist. Pune - 411018.

3. The Sub-Divisional Officer
Pune Sub-Division,
Pune, Dist - Pune.

4. The District Collector, Pune.
 5. The State Government,
 Through its Principal Secretary,
 Urban Development Department,
 Mantralaya, Mumbai.

.Respondents

 Mr. Tejas D. Deshmukh a/w. Mr. H. D. Chavan for the Petitioners.
 Mr. A. A. Alaspurkar, AGP for Respondent Nos. 3 to 5-State.
 Mr. Rohit Sakhadeo for Respondent Nos. 1 & 2-Corporation.

**CORAM : A. S. CHANDURKAR AND
 M. W. CHANDWANI, JJ.**

DATE : 06 FEBRUARY 2023

ORAL JUDGMENT (PER : A. S. CHANDURKAR, J)

. Heard the learned counsel for the parties.

2. Rule.

3. Rule is made returnable forthwith. With the consent of the parties, the Petition is taken up for final disposal.

4. The Petitioners' claim to be owners of the lands as under:-

- i. admeasuring 1,075.42 Sq.Mtrs. reserved for constructing 12 Mtrs. wide road,
- ii. portion admeasuring 1,017.05 Sq. Mtrs reserved for constructing 18 Mtrs. wide road, and

- iii. Portion admeasuring 4,758.74 Sq. Mtrs. reserved
for constructing a playground.

5. According to the Petitioners, the said lands have been shown to be part of the development plan of Pimpri Chinchwad Municipal Corporation. It is the grievance of the Petitioners that despite seeking to utilize the said lands, for the purpose for which they are reserved, the Petitioners have not received any compensation. It is for that reason that the Petitioners have approached this Court seeking a direction to the Municipal Corporation to initiate and complete the acquisition proceedings in respect of the aforesaid lands.

6. In the affidavit filed on behalf of the Municipal Corporation, it has been stated that in so far as, reservation No. 355 for the play ground is concerned, the proposal for acquisition of the same has been submitted to the District Collector. In so far as 18 meter D. P. road is concerned, there is an option for the Petitioner to accept the compensation in the form of TDR/FSI subject to availability and permissibility. In so far as 12 meter D. P. road is concerned, the stand taken is that as the road is already laid down, the Corporation would not be in position to accept the demand of the Petitioners.

7. After hearing the learned counsel for the parties, it is seen that in so far as the reservation for the play ground and 18 meter D. P. road are concerned, steps for acquiring the said lands have been initiated. One of the questions to be considered by the Corporation is the exact area that belongs to the Petitioners which is affected by such development activities. We therefore find that the Petitioners can be permitted to make applications to the Respondent No.1-Municipal Corporation, seeking compensation in the form of TDR/FSI subject to availability or monetary compensation in accordance with law. While considering such applications, the Corporation would be in a position to verify the title of the Petitioners and the exact entitlement to any compensation. Needless to state that if the Petitioners cannot be awarded any compensation, the Corporation would furnish reasons for not doing so.

8. In that view of the matter, the following order would serve the ends of justice.

ORDER

- (i) The Petitioners shall within period of four weeks from today make three separate applications for each land to the Respondent No.1-Municipal

Corporation along with all relevant documents indicating the manner in which their lands are affected by the reservation under the development plan;

(ii) The Corporation shall within further period of eight weeks of receiving such applications, consider the same and take appropriate steps in the matter of granting compensation to the Petitioners in accordance with law, subject to their entitlement. If the Corporation intends to refuse to grant any application, it shall assign reasons for the same.

(iii) If the Petitioners are not satisfied with the response to the aforesaid, they are at liberty to take legal recourse in accordance with law.

9. With this direction, the Writ Petition is disposed of. Rule is made absolute in the above terms with no order as to costs.

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signed by
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SUBHASH
LOKHANDE
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(M. W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)