

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

WRIT PETITION NO. 8680 OF 2017

Mr. Abdul Qayyum Moazzam Ali
And Anr.

...Petitioners

V/s.

Thane Municipal Corporation
And Ors

... Respondents

Mr. G. S. Godbole Senior Advocate a/w. Mr. Kaustubh Thipsay &
Ms. Shaivani Samel for the Petitioner.

Mr. N. R. Bubna a/w Ms. Pooja Malik for the Respondent No.1 to 3
Mr. A. A. Alaspurkar AGP for the Respondent No.4.

Mr. Akash D. Warang a/w. Ms. Pradnya R. Kamble for the
Respondent No.5.

**CORAM : SUNIL B. SHUKRE &
RAJESH .S. PATIL, JJ.**

DATED : 25th JULY, 2023

ORAL JUDGMENT : (PER SUNIL B. SHUKRE, J.)

1. Rule. Rule is made returnable forthwith. Heard finally
by consent of learned counsel for the parties.

2. The land in question belongs to the Petitioners have
but already been used by the Corporation for the purpose of
construction of D.P. Road. The Petitioners having approached this

Court for seeking compensation, in accordance with law for portion of the land of the Petitioner used by the Corporation, there was request for taking measurement of the land actually used by the Corporation. Measurement accordingly, was taken and report was submitted. Cognizance of measurement report was taken by this Court and it was noted in the order dated 16th January, 2023 that as the area actually used by the Corporation for construction of DP Road has been shown therein, the Corporation could conveniently initiate process for grant of compensation, in lieu of land used for the purpose of construction of DP Road, in accordance with law. As per the measurement report marked as Document 'A', the land used for the purpose of construction DP Road is 0.01.48 HR which is equivalent to 148 Sq.Mtrs., and that would mean that the Corporation would have to pay compensation for using this much area of the land belonging to the Petitioners. Of course, initially the Corporation had expressed its willingness to grant TDR in lieu of the land used, but the Petitioners were not ready to accept the TDR. This Court has observed in its order dated 16th January, 2023 that the Corporation would have to grant compensation to the Petitioner, in accordance with law. This was in consonance with the view taken by the Full Bench of this Court in the case of ***Shree Vinayak Builders & Developers V/s. State of Maharashtra*** decided on 25th July, 2022, and reiterated and followed by this Court in ***Smt. Anandibai Kisan Jabar and Ors V/s. The Commissioner, Thane Municipal Corporation and Anr*** decided on 12th July, 2023.

3. In view of the above, we direct the Corporation to pay compensation to the Petitioners by following the procedure prescribed in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, starting from its Section 19 and onwards, which shall be monetary compensation, within a period of four months from the date of receipt of writ of this Court.
4. Rule is made absolute in the above terms.
5. The Petition is disposed of accordingly.

(RAJESH S. PATIL, J.)

(SUNIL B. SHUKRE, J.)