

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

WRIT PETITION NO.15243 OF 2022

Chandrashekhar Sitaram Derrukhkar & Ors ... Petitioners

Versus

The Municipal Corporation of Gr.
Mumbai & Ors. ... Respondents

YUGANDHARA
SHARAD
PATIL

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Mr. Nikhil Mengde a/w Mr. Siddesh Dalvi for the Petitioners.
Smt. K.N. Solunke AGP for the Respondent-State.
Mr. Om Suryavanshi for Respondent Nos. 4 and 5.

**CORAM: R. D. DHANUKA AND
M.M.SATHAYE JJ.**

DATE : 4th JANUARY, 2023

PC. :-

1. By this petition filed under Article 226 of the Constitution of India, petitioners have prayed for an order and directions against respondent no. 7 i.e. the Presiding Officer, Land Acquisition, Rehabilitation and Resettlement Authority to decide the reference application described in prayer clause (A) of the petition on or before 31st December 2022 or such other date as this Court may be deem fit. The petitioners have also prayed for directions against respondent nos. 1 to 6 not to take any coercive action till such time the reference application is finally decided by respondent no. 7 and

for other reliefs.

2. Petitioners have filed Writ Petition (L) No. 97144/2022, inter-alia praying for order against Collector, to consider complaint dated 5th October 2020 regarding awarded final amount and for quashing and setting aside letter dated 21st October 2020. By order dated 15th February 2020, this Court, disposed of said Writ Petition and also Interim Application (St.) No.2449 of 2021 recording that since the competent authority under section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013,(hereinafter referred to as the “said act”) has been established and started functioning at Nagpur, liberty is granted to the petitioners to approach said authority within a period of four weeks from the date of the said order.

3. This Court further clarified that if the said application is filed before the competent authority within four weeks, the same shall be decided on merit within a period of 12 weeks from the date of passing said order. This Court accordingly disposed of said Writ Petition and made it clear that interim order passed by the Court

earlier, shall continue for a further period of 6 weeks from the date of passing of order dated 15th February 2021. The said interim order is not continued after expiry of 6 weeks from the date of order dated 15th February 2021. Learned counsel for petitioners states that proceedings under Section 64 of the said Act are pending before the competent authority and are at the evidence stage.

4. It is submitted that till such time the proceedings are decided by the competent authority, petitioners shall not be asked to hand over possession of the writ property which is already acquired. Upon raising a query as to whether any compensation has been awarded in the award in respect of the writ property, learned counsel for petitioners stated that compensation has been wrongly paid to the builder instead of paying the same to the petitioners. Issue as to whether builder would be entitled to such compensation or the petitioner, is also subject matter of enquiry under section 64 of the said Act before the competent authority.

5. Ms. Solunke, learned AGP for the State invited our attention to the communication dated 1st February 2022, from Deputy

Collector to the Additional Collector, Kokan Division, Kokan, stating that various parties have been awarded various amounts under the award in respect of the writ property. There appears to be some dispute between the petitioners and constituted attorney Suresh Devendra Dnyanmothe. The said dispute is the subject matter of the enquiry under section 64 of the said Act.

6. We are not inclined to accept the prayers of petitioners that till such time enquiry under section 64 of the said Act is completed, petitioners shall not be asked to hand over possession of the property which is already acquired. Property once having been acquired, has to be handed over to the acquiring authority, irrespective of the fact that application for enhancement of the property is pending before the competent authority. Accordingly, we pass the following order.

(i) Petitioners are directed to hand over possession of the writ property which was subject matter of the acquisition to Respondent No.1- Collector, within four weeks from today without fail.

(ii) It is made clear that if the vacant possession of the

property is not handed over by the petitioners within the time prescribed, then Respondent no.1-Collector would be at liberty to take forcible possession of the property from the petitioners with assistance of police.

(iii) Competent authority is directed to dispose of the inquiry pending under section 64 of the said Act expeditiously.

(iv) Writ Petition is dismissed in the aforesaid terms. No order as to costs.

[M.M.SATHAYE,J.]

[R. D. DHANUKA, J.]