

Wadhwa

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 1253 OF 2023
IN
CONTEMPT PETITION NO. 70 OF 2022
IN
WRIT PETITION NO. 1695 OF 2021

Rohan J Tiwari & Ors

...Applicants/
Petitioners

Versus

Deputy Commissioner Zone IV & Ors

...Respondents

Mr GS Godbole, Senior Advocate, with Drupad Patil & Dheeraj Patil, for the Petitioners.

Mr AY Sakhare, Senior Advocate, with Pooja Yadav i/b Sunil Sonawane, for the Respondent-BMC.

Mr S Sonawane, Assistant Engineer (Maintenance) K-West & Mr Karanjkar, Assistant Engineer (Development Planning) K-Ward-present in Court.

**CORAM G.S. Patel &
 Kamal Khata, JJ.**

DATED: 25th October 2023

PC:-

1. Our order of 4th October 2023 reads thus::

“1. Mr Sakhare states on instructions that the amount of compensation has been worked out. After hearing the

owner of the land, the question of apportionment between the owner and the lessee has also been worked out. Certain steps are required to be taken administratively to release the amount to the Petitioners.

2. Mr Sakhare seeks at least four weeks' time to make this payment. We do not think that is reasonable. These procedures, especially during the days of electronic communications and digital documents cannot possibly take that kind of time. There is no reason why, if the apportionment has been made, the Contempt Petitioner should be deprived of the benefits of this payout for an extended period of time. After all, the Petitioners are equally entitled to be able to celebrate Dussehra in an appropriate fashion. We therefore direct that the payment must be made to the Petitioners as determined by the MCGM by 23rd October 2023. If there is an additional claim, we will deal with that before Diwali.

3. List the matter on 25th October 2023.”

2. There is also a further Affidavit of the 1st Petitioner. It says that pursuant to our order the Petitioners submitted a written request for release of compensation. The response to that was that compensation could not be released without title verification, a possession receipt, vendor registration, and transfer of PR cards in Municipal Corporation for Greater Mumbai's (“MCGM's”) name and without paying an amount of roughly Rs 84,000 towards title verification.

3. We are unable to understand this. Possession has been with the MCGM for a long time. The naala in question has been completed. The Petitioners have been dispossessed. We do not see

where the question arises of a possession receipt or a title verification or of this thing called “vendor registration”. As to the PR card, all that the MCGM needs to do is to show a copy of this Court’s order to the land records office to have the land records transferred in its name or if there is a specific issue approach the Court and we will make the appropriate directions in that regard. As to the possession receipt, if this is required for a mutation of the land records then a plain possession receipt unlinked to any payment is possible and Mr Godbole for the Petitioners agrees that the Petitioners will execute when the necessary possession receipt.

4. We do not believe there is any question in these circumstances of the MCGM demanding payment for the so called title verification. All that is, so to speak, water already down the naala.

5. Anticipating this, quite correctly Mr Sakhare has five bankers’ cheques in favour of the Petitioners. The aggregate amount comes to Rs.1,07,13,050.55. These bankers’ cheques are given to Mr Godbole today. He states that the possession receipts will be executed by his clients on demand at the office of the Executive Engineer, SWD within 48 hours from today. The Petitioners will not be required to pay any amount towards title verification.

6. The MCGM authorities will also give to the Petitioners copy of a statement showing how the apportionment has been made and how the compensation has been determined.

7. On the previous occasion we had kept open the Petitioners right to seek enhancement. That portion of the order will continue.

8. No further orders are required in the Interim Application or the Contempt Petition. Both are disposed of in these terms. No orders as to costs.

(Kamal Khata, J)

(G. S. Patel, J)