



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

WRIT PETITION NO.5362 of 2021

Waman Pandurang Rabade

vs.

State of Maharashtra, through its Secretary, Urban Development Department, Mantralaya,
Mumbai and another.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.J.Thakkar, Advocate for petitioner.
Shri S.A.Ashirgade, Government Pleader for respondent no.1.
Shri G.A. Kunte, Advocate for respondent no. 2.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 13th SEPTEMBER 2023

Heard.

2. The petitioner claims to be the owner of an undeveloped plot bearing Plot No.63 admeasuring 2365.57 square feet situated at Somalwada, Nagpur. On 13.10.1992 the petitioner sought regularization of the aforesaid plot and accordingly made an application in that regard to the Nagpur Improvement Trust-NIT. On 26.11.2014 the application for regularization came to be rejected for the reason that the Plot in question was affected by Development Plan Road. The grievance of the petitioner is that the NIT through its officers has taken over possession of portion of the petitioner's land for laying down 18 meters wide road. No compensation whatsoever has been paid to the petitioner for the same. Alleging violation of Article 300 A of the Constitution of India, the petitioner claims compensation for the acquisition of the aforesaid land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, the Act of 2013).

3. Shri A. J. Thakkar, learned counsel for the petitioner submitted that the action on the part of the NIT in taking over the petitioner's land and utilizing the same for laying down 18 meters Development

Plan Road without compensating the petitioner was illegal. The petitioner being the owner of the said land, he could not be deprived of the said property without following the due process of law. Placing reliance on the decision in *Vidya Devi vs. State of Himachal Pradesh and others [(2020) 2 SCC 569]* it was submitted that the petitioner was entitled to be compensated for the illegal act committed by the NIT. Since the land in question was located within the layout, the petitioner had a right to compensation.

4. Shri G.A.Kunte, learned counsel for the respondent no.2-NIT opposed the aforesaid submissions. Referring to the affidavit in reply, it was submitted that the layout in question was unauthorized. The same therefore under the purview of a Scheme prepared in accordance with the Maharashtra Gunthewari Developments (Regularisation, Upgradation and Control) Act, 2001 (for short, the Act of 2001). In view of Section 3(2)(c) of the Act of 2001 it was not the responsibility of the NIT to provide any alternate land or compensate the land owner in respect of the land affected by any development in the said layout. The petitioner's request of regularization was rejected long back on 26.11.2014 indicating that his land was affected by Development Plan Reservation. Relying upon the decisions in *Manish s/o Dinesh Soni vs. The State of Maharashtra and others [2012(3) All M R 616]* and ***Writ Petition No.5337 of 2027 (Surendranath s/o Madhusudan Mor vs. The Chairman, Nagpur Improvement Trust, Nagpur)*** decided on 11.02.2019, it was submitted that the petitioner was not entitled for any compensation whatsoever. The writ petition was liable to be rejected.

5. Having heard the learned counsel for the parties and having perused the material on record, we find that the petitioner is not entitled for the relief sought by him. Undisputedly, the land of the petitioner is located in a layout that was not sanctioned. The petitioner's request for regularization came to be rejected on 26.11.2014 on the ground that the said plot was affected by

Development Plan Reservation. The layout map indicates that from Plot No.63, a provision has been made for 18 meters wide road. The provisions of Section 3(2)(c) of the Act of 2001 are clear and when such development is carried out, the Planning Authority is not responsible either to provide any alternate plot/land or compensation to a land owner affected by the process of development. This position is clear from the decision relied upon by the learned counsel for the respondent no.2. It therefore cannot be said that the petitioner has been deprived of his land in a manner that violates Article 300 A of the Constitution of India.

6. For aforesaid reasons, the writ petition stands dismissed with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.