



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5622 OF 2021

Raju s/o Sarjerao Gaikwad .. Petitioner

versus

State of Maharashtra & others .. Respondents

AND

WRIT PETITION NO. 5665 OF 2021

Prashant Sarjerao Gaikwad .. Petitioner

versus

The State of Maharashtra & others .. Respondents

AND

WRIT PETITION NO. 15015 OF 2017

Aarti Kakasaheb Dhondre & another .. Petitioners

versus

The State of Maharashtra & others .. Respondents

AND

WRIT PETITION NO. 5608 OF 2021

Jitendra Sarjerao Gaikwad .. Petitioner

versus

The State of Maharashtra & others .. Respondents

AND

WRIT PETITION NO. 8219 OF 2017

Kisan Khanderao Dhondre & others .. Petitioners

versus

State of Maharashtra & others .. Respondents

AND
WRIT PETITION NO. 2661 OF 2017

Walabai Rangnath Dankar .. Petitioner

versus

The State of Maharashtra & others .. Respondents

AND
WRIT PETITION NO. 10391 OF 2017

Inderjeetsingh Bikkarsingh Maan & another .. Petitioners

versus

The State of Maharashtra & others .. Respondents

AND
WRIT PETITION NO. 14915 Of 2017

Kisan Khanderao Dhondre & others .. Petitioners

versus

The State of Maharashtra & others .. Respondents

AND
WRIT PETITION NO. 6867 OF 2014

Satish Namdeorao Umalkar .. Petitioner

versus

The State of Maharashtra & others .. Respondents

AND
WRIT PETITION NO. 4972 OF 2016

M/s M.C.M. Properties & others ..Petitioners

versus

The State of Maharashtra & others .. Respondents

AND
WRIT PETITION NO. 4953 OF 2016

M/s C.M. Developers .. Petitioner

versus

The State of Maharashtra & others .. Respondents

AND
WRIT PETITION NO. 10613 OF 2017

Sardar Gurupreetsingh s/o Sardar
Gurunam Singh Pandher .. Petitioner

versus

The State of Maharashtra & others .. Respondents

Mr. D. P. Palodkar and Mr. A. P. Bhandari, Advocates for
Petitioners in respective Petitions.

Mr. R. K. Ingole, AGP for the State.

Mr. Sachin Deshmukh and Mr. S. V. Deshmukh, Advocates for
CIDCO in respective Petitions.

Mr. D. B. Gaikwad, Standing Counsel for Union of India.

**CORAM : RAVINDRA V. GHUGE AND
R. M. JOSHI, JJ.**

DATE : 15th APRIL, 2024.

PER COURT :

1. Writ Petition Nos. 6867/2014, 4972/2016, 4953/2016 and 10613/2017 were not listed today. By consent of the parties, the Petitions are taken on the Board.

2. All the learned Advocates for the Petitioners are united in submitting that these Petitions were filed for challenging the acquisition proceeding on account of inordinate delay in completing the process towards acquisition. All the lands are said to be under compulsory acquisition keeping in view the sanctioned development plan for the Waluj notified area.

3. Vide a Notification dated 19.12.2023, the State Government has arrived at a decision to “withdraw the lands from acquisition” in cases wherein possession has not been taken. The acquisition procedure is directed to be completed in respect of all these lands, possession of which, has already been taken.

4. The learned Advocates for the Petitioners, submit on instructions that the Petitioners do not have any objection for withdrawing the lands from acquisition, meaning thereby that some of the lands would be released from acquisition. The grievance is as

regards the footnote No. 2 of the Notification dated 28.11.2023 which is published in Maharashtra State Gazette dated 19.12.2023. The said footnote reads as under :-

२) उक्त प्रकरणी अर्जदार याचे कडून भूसंपादनाच्या झालेल्या विलंबाबाबत कोणतीही नुकसान भरपाई मागणार नाही अगर कोणत्याही सक्षम न्यायालयात दाद मागणार नाही. या आशयाचे बंध पत्र करून घेणे बंधनकारक राहील.

5. The contention is that the said footnote is contrary to Section 48 of the Land Acquisition Act, 1894. It is further canvassed that if the land is notified for acquisition and subsequently, such acquisition is withdrawn, the District Collector has to determine the amount of compensation towards damages. All the Petitioners assert that their right for damages cannot be taken away by issuance of a Notification.

6. It is further submitted that until the compensation for damages is determined, CIDCO cannot insist on footnote No. 2 thereby calling upon the Petitioners to give an undertaking that they will not seek damages for the delay caused and they would not approach any Court of law.

7. It does not call for any debate that if any litigant has a right under a particular Statute, unless he voluntarily acquiesces the said right and does not claim damages, on his own free will and desire, he cannot be placed under the embargo that he shall per-force tender such an undertaking.

8. Another issue that is raised by the Petitioners is that roads were laid in some areas in the lands, possession of which is not taken and they are withdrawn from acquisition. Acquisition for the said roads will have to be completed and compensation will have to be accordingly paid as the lands were acquired either by consent or by following the procedure laid down under the Land Acquisition Act.

9. The learned Advocate representing CIDCO authority has placed on record a communication dated 19.01.2024 which is an intimation by the Desk Officer, Urban Development Department, addressed to the various authorities of CIDCO as well as local administration, about a review meeting to be held on 23.01.2024.

10. In view of the above, **these Writ Petitions are disposed off**. The lands which have been withdrawn from acquisition and for

which Notification has already been issued, would now be at the disposal of the Petitioners. If they desire to develop those lands, they are duty bound to follow the due procedure laid down in law.

11. Insofar as the roads are concerned, let the Urban Development Department, along with CIDCO and the concerned authorities, take a decision as regards the compensation to be paid for the lands which have being partly used and/or demarcated, for roads. Such decision may be taken within 90 days and be communicated within 15 days thereafter to each of these Petitioners. If the Petitioners are aggrieved by such decision, they are at liberty to espouse their rights and claims in accordance with the remedies as may be permissible in law.

12. With regard to the damages, since the Petitioners desire to approach the District Collector, they are at liberty to make an appropriate representation and the District Collector would consider the same within 120 days from the date of tendering of the representation.

13. **Pending Civil Applications**, if any, would not survive and **stand disposed off**.

(R. M. JOSHI)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE

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