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2-wp-7237-24

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

2 WRIT PETITION NO. 7237 OF 2024

ARUN NAMDEORAO TAK

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND
OTHERS

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Advocate for the Petitioner : Mr. M.G.Kochar

h/f. Mr. B. R. Waramaa

AGP for Respondent / State : Mr. V. M. Kagne

Advocate for Respondent No.4 : Mr. V. V. Bhavthankar

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CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.

DATE : 22.07.2024

PER COURT :

1. The Petitioner claims of being the owner of 1 Hector 20 R. land out of Survey No. 1-A situated at Jalalpur, Parali Vaijinath, District Beed. On 01.10.1998, Respondent No. 4 had submitted a Development plan which was finalized on 20.07.1998 and it was published in the Maharashtra Gazette, on 01.10.1998. The Reservation No. 56 was ascribed for a "Cremation Ground".
2. The Petitioner noticed development activities at Site No.56 and submitted a written objection on 26.06.2024.

3. The learned Advocate appearing on behalf of the Municipal Council, Parali Vaijinath, tenders a copy of a Communication dated 19.07.2024, addressed by the Chief Officer of the Municipal Council to the Petitioner, stating therein that the acquiring body is willing to commence private negotiations. Copy of the said Communication is marked as 'X' for identification.

4. The learned Advocate for the Petitioner submits on instructions that the Petitioner is not interested in private negotiations. He prayed that the acquiring body may resort to compulsory acquisition. He further submits that the acquiring body is likely to offer TDR which the Petitioners are not willing to accept.

5. The issue of the Transferable Development Rights (TDR) is now settled by the Full Bench of this Court in ***Shree Vinayak Builders and Developers vs. State of Maharashtra and others, (2022) 4 Mh.L.J. 739.*** Moreover, if the Petitioner refuses private negotiations and refuses TDR, there cannot be a compulsion. The land will have to be acquired by compulsory acquisition under the 2013 Act.

6. Considering Section 20A which was included by way of an amendment in the Specific Relief Act, 1963, we are not staying the public project. We, however, make it clear that the acquiring body shall forward a proposal for acquisition within 90 days to the competent authority, which shall proceed strictly in accordance with the scheme enunciated under the 2013 Land Acquisition Act.

7. In view of the above, this **Writ Petition is disposed off.**

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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