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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 884 OF 2024

Shanidas Laxman Bhoir & Ors ...Petitioners
Versus
Kalyan Dombivali Municipal Corporation Its
Office & Ors ...Respondents

Mr Sagar Joshi, for the Petitioner.
Mr Rohit Sakhadeo, for Respondent No1-KDMC.

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 24th January 2024

PC:-

1. The Petition is on an identical footing with Writ Petition No 15307 of 2023 in which we passed the following order on 16th January 2024:

“1. The Petition is vigorously opposed by Mr Sakhadeo, learned Advocate for Kalyan Dombivali Municipal Corporation (“KDMC”).

2. The 12 Petitioners say that their agricultural lands are proposed to be acquired for the Kalyan Dombivali Ring Road. They protest because they say that the only compensation that they are being offered is in the form of Transferable Development Rights (“TDR”), which they do not want. They say they are being ‘forced’ to accept TDR.

They accept that acquisition cannot be resisted, but they maintain that a particular form of compensation cannot be forced on them.

3. The specific grievance is with respect to a Public Notice dated 21st September 2018 at Exhibit “B” at page 44, by which the KDMC seems to have suggested that for this project, compensation will take the form of TDR.

4. We have no manner of doubt that any acquisition must follow the procedure established by law, including under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. It is only necessary to clarify that the Notice at page 44 will not, by itself, determine the rights of either the Petitioners or the KDMC one way or the other. Equally, the fact that the Petitioners have not responded to this Notice will not, at any stage, be construed to mean that they have accepted TDR as the only form of compensation.

5. We say this because the acquisition process is never easy. It involves an inquiry into the condition, nature, and extent of the lands, their location, comparative instances to determine the value, as well as various other factors, such as whether the land can be developed, its proximity, its suitability, and so on. Necessarily, too, the question of who is entitled to compensation and who are the holders or rights holders of the land must also be addressed in the course of these acquisition proceedings.

6. We believe it will be entirely premature for a Writ Court to decide at this stage that the Petitioners are (or equally are not) entitled to compensation, or what form that compensation should take. This is quite apart from the fact that it is difficult to see how the Petitioners can maintain that they are entitled to compensation in a particular form. But the complaint in the Petition is perhaps the opposite, that the Petitioners are being deprived of the choice of the

nature of compensation. We will accept that as the central premise of the Petition.

7. Accordingly, all these questions must be kept open for decision at an appropriate time and cannot and should not be decided at this stage. The ensuing acquisition award will undoubtedly declare the amount of compensation. What form that compensation should take and to whom it is to be given is a matter for a much later date.

8. Leaving all these contentions open, we dispose of the Petition with no order as to costs.”

2. All seven Petitioners adopt the same arguments and the public notice in question is at page 43 marked as Exhibit “B”.

3. The same order is made in the present Writ Petition and it is disposed of accordingly.

(Kamal Khata, J)

(G. S. Patel, J)