

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5186 OF 2024

Surjitsingh Ujagarsingh

.. Petitioner

Versus

Mira-Bhayander Municipal Corporation and Ors. .. Respondents

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- Mr. Rudresh Vilasrao Jagdale a/w. Mr. Rajdeep Singh Nanvan and Ms. Shivani Jadhav, Advocates for Petitioner.
 - Mr. P. G. Sawant, AGP for Respondent No.3.

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 08, 2024

P.C.:

- 1.** Mentioned. Not on Board. Taken on Board.
- 2.** Heard Mr. Jagdale, learned Advocate for Petitioner and Mr. Sawant, learned AGP for Respondent No.3.
- 3.** Perused the praecipe dated 08.05.2024 and the Writ Petition.
- 4.** Writ Petition seeks intervention of this Court. Writ Petitioner is the owner of land which stands acquired by Mira-Bhayander Municipal Corporation for road and drainage purpose. The Defendant i.e. Acquiring Body's contention is that they have followed due process of law for acquisition of Claimant's property for public purpose. Considering that property of Writ Petitioner – Claimant is acquired under the power of eminent domain, the Writ Petitioner has accepted the fate of acquisition.

5. The judgment which is impugned in the present Writ Petition is passed on 09.01.2024 by the District Court in Miscellaneous Civil Appeal No.25 of 2022 giving specific directions. The Appeal has been allowed with specific direction that both the parties shall honour the acquisition proceedings undertaken at the instance of the District Collector, Thane and shall endeavour to ensure that acquisition proceedings are got completed within six months. There is a further direction to the Writ Petitioner – Plaintiff permitting and giving him liberty to withdraw 30% of the expected compensation deposited by the Defendant with the District Collector, Thane.

6. Mr. Jagdale has drawn my attention to the contents of paragraph No.11 of the order dated 09.01.2024. Specific findings have been returned by the learned District Court, *inter alia*, with specific reference to an order passed by this Court in allied proceedings namely Writ Petition No.2210 of 2021 arising out of similar Miscellaneous Civil Appeal which was pending before the District Court in respect of a Regular Civil Suit filed by the Claimant / owner. The High Court in fact allowed liberty to withdraw 30% of the compensation amount which was deposited by the Collector in such matters and only thereafter allowed the Corporation to continue with the development project.

7. Mr. Jagdale, learned Advocate appearing for the Writ

Petitioner – Plaintiff would submit that despite order dated 09.01.2024, until today there is no change in circumstances whatsoever. He would draw my attention to the application for withdrawal dated 31.01.2024 which is appended at page No.821 of the Writ Petition. I have perused that Application. He would submit that the said Application is simply kept pending by the Collector's office and now the reason is given that the Officers are busy in election work.

8. This Court takes serious cognizance of the pendency of the Application dated 31.01.2024 by the Officers of the District Collector, Thane namely the Sub-Divisional Officer of Thane who is seized with the proceedings. The District Collector, Thane is directed immediately to give hearing to the Writ Petitioner on his application dated 31.01.2024 for withdrawal of 30% amount as directed by the District Court in its order dated 09.01.2024 within a period of two weeks from today.

9. The reason which is orally conveyed that Officers are busy in election work shall not be accepted by this Court as reason for delay in determining the application dated 31.01.2024 by Sub-Divisional Officer or the District Collector, Thane. Sub-Divisional Officer or District Collector, Thane should take note that land of private owners are acquired against their wishes under the power of eminent domain

and the Claimants / owners are entitled to compensation by following due process of law.

10. The District Court by its order dated 09.01.2024 clearly states that both parties shall honour the acquisition proceedings undertaken at the instance of the District Collector, Thane to be got completed within six months. This six months deadline is expiring on 09.06.2024. District Collector, Thane shall ensure that not only the application dated 31.01.2024 is determined within a period of two weeks from today without reference to this Court for seeking any extension of time whatsoever, the order dated 09.01.2024 shall also be implemented and executed in its true letter and spirit and the entire acquisition proceedings shall be completed by 09.06.2024.

11. Mr. Sawant, learned AGP enters appearance on behalf of Respondent No.3 – District Collector, Thane. He is directed to place a server copy of this order before the Respondent No.3 – District Collector, Thane by tomorrow i.e. 09.05.2024 and correspond with the Respondent No.3 – District Collector, Thane and intimate to him that the present order shall be complied with.

12. With the above directions and while sustaining the order dated 09.01.2024, Writ Petition stands partially allowed and disposed.