

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6155 OF 2024

Amay Uday Brhme & Ors

...Petitioners

Versus

The State of Maharashtra through its Principal
Secretary Public Works Department having Office
& Ors

...Respondents

Mr. Tejas Deshmukh, a/w Ritesh Kulkarni & Sagar Kursija,
Advocates for the Petitioners.

Mr. B.V. Samant, Addl.GP, a/w M.M. Pabale, AGP, for State-
Respondent Nos.1 & 2.

Mr. Saket Mone, a/w Devansh Shah, Advocates for Respondent
Nos.3 & 4.

Mr. Siddhesh Bane, i/b Harshad A. Sathe, Advocate for
Respondent No.6.

CORAM : G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

DATE : AUGUST 16, 2024

PC :

1. We have heard Mr. Deshmukh, learned Counsel for the
Petitioners. Mr. Samant, learned AGP on behalf of Respondent Nos.1
and 2, Mr. Mone, learned Counsel for Respondent No.3 & 4, Mr. Bane,
learned Counsel for Respondent No.6 and Respondent No.5-Pune

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Metropolitan Region Development Authority (“**PMRDA**”) is a formal party.

2. The Petitioners are purchasers of flats in a residential and commercial project as floated by Respondent No.6 M/s. Avior Merlin Ventures LLP. It is the Petitioner’s case that the Petitioners had entered into an agreement with Respondent No.6 to purchase residential and commercial units in the year 2018-19 in the said project of Respondent No.6. It is contended that all appropriate permissions were granted to Respondent No.6 for undertaking such development. Respondent No.6 had also agreed to deliver possession of the units being purchased by them on or before 31 December, 2022. It is contended that accordingly 90% construction along with amenities and club house was completed by December, 2020. The Petitioners have stated that suddenly they were given to understand that in December, 2020, the construction of the building was stopped and it was on account of a stop work notice issued by the PMRDA on the ground that the land on which the building was being constructed be acquired for the purpose of constructing the “Pune Ring Road”. The Petitioner thereafter gathered documents, when it was revealed to them, that a notification under Section 3, 4 and 6

under the Maharashtra Highways Act, 1955 (“*the Act*”) was issued by Respondent No.2 notifying the land in question to be acquired for the Pune Ring Road Project. Thereafter on 18 January, 2021 a further notification was issued under the provisions of Section 15 and 17 of the Act. The Petitioners did not raise any objection or oppose the acquisition. Consequently, on 31 December, 2021 a notification under Section 18 of the Act came to be issued, which is in the nature of the declaration for acquisition of the land in question and under which, by virtue of sub-section 2 of section 18 land would absolutely vest in the State Government free from all encumbrances.

3. On such backdrop, it is the Petitioners case that although a declaration is made under Section 18 was issued on 31 December, 2021, till date no progress has been made to forward the acquisition, inasmuch as, Respondent No.2 has not proceeded to declare an award to compensate the Petitioners who are persons interested in the land. The Petitioner intend to assert their rights/claim for compensation in the proposed award to be declared. The petition is accordingly filed praying for the following reliefs:-

“a. Rule may kindly be issued:

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b. this Hon'ble Court may by it's appropriate writ, order or direction may kindly be pleased to direct Respondent nos. 2 to 4 to immediately complete acquisition proceedings under the Maharashtra Highways Act, 1955 and pay to the Petitioners just and fair compensation with respect to acquisition of building C-1 in a project by name Navyangan Phase-II which is being constructed on land bearing Gat nos. Nos. 109(P), 144(P), 145, 146, 147, 148, 150, 151, 152, 154, 160 and 161 situated at village Kasar-Amboli, Taluka Mulshi, District Pune;

c. pending the hearing and final disposal of present writ petition, this Hon'ble Court may kindly be pleased to direct the Respondent authorities not to change the alignment of Pune (Western) Ring Road passing through a project by name Navyangan Phase-II which is being constructed on land bearing Gat nos. Nos. 109(P), 144(P), 145, 146, 147, 148, 150, 151, 152, 154, 160 and 161 situated at village Kasar-Amboli, Taluka Mulshi, District Pune;

d.ad-interim relief in terms of prayer clause (c) above may kindly be granted;

e. Any other relief in the interest of justice may kindly be passed.”

4. Mr. Mone, learned Counsel for the acquiring authority namely the MSRDCL would submit that there is certainly a delay in completing the acquisition process which, according to him, is attributable to the fact that Respondent No.6 had approached this Court in Writ Petition No.8490 of 2021 wherein Respondent No.6 claimed diverse reliefs. He states that on such proceedings a coordinate Bench had passed orders by permitting Respondent No.6 to make a

representation to MSRDCL on the issue whether the alignment of the ring road can be changed so as to avoid acquisition of the land in question. It is stated by Mr. Mone that it was not found feasible to accept such request as made by Respondent No.6 to change the alignment of the ring road. It is, thus, Mr. More's submission that the land in question is necessarily required to be acquired for the ring road project, for which the Land Acquisition Officer/Respondent No.2 needs to proceed to declare an award. He submits that in fact there was a second Writ Petition filed by Respondent No.6 namely, Writ Petition No.10323 of 2022, in which several prayers are made questioning the acquisition. However, no interim orders are passed on such Writ Petition.

5. Mr. Samant, learned Additional Government Pleader would not dispute the aforesaid position which has come on record and as urged by Mr. Mone. In fact he would submit that at the level of Respondent No.2, things have proceeded qua the valuation of the land in question. He submits that there would not be any impediment for Respondent No.2/Land Acquisition Officer, to proceed to publish an award and undertake appropriate exercise qua the claims for

compensation as may be received by him.

6. In the light of the above discussion, in our opinion, the acquisition proceedings have commenced quite sometime back, it is hence necessary that such proceedings are required to be taken to its logical conclusion at the earliest and it ought not to be delayed further as it would be detrimental to the public interest. Thus considering the plea as raised before us in the Petitioners claiming to the persons interested in compensation to be awarded, keeping open all contentions of the parties, we dispose of this petition by directing Respondent No.2 to complete the acquisition process within a period of three months from today by publishing an award. All rights and contentions of the Petitioners to assert their claim for compensation are expressly kept open. Also, if the Petitioners have any other legal rights against Respondent No.6, such rights are also expressly kept open.

6A. Although we have categorically observed in paragraph 6 that the rights and contentions of the parties are kept open, we clarify that all rights and contentions of Respondent no. 6 in regard to any decision taken on the representation made by Respondent No. 6 to

MSRDCL as also the proceedings as initiated by Respondent No. 6 which are subject matter of independent Writ Petition, are expressly kept open. We also clarify that as MSRDCL has received representation from Respondent No. 6 and/or from some other parties in regard to realignment of the Ring Road, it is for the MSRDCL to take appropriate decision in respect of such realignment, which is completely within its domain. If any such decision is taken qua the subject matter of disputes in the present proceedings, in that event, the period of three months to complete the acquisition process be accordingly applied. In the event of private disputes between the petitioner and Respondent No. 6, all contentions of the parties are kept open to be agitated before the appropriate forum. At this stage, Mr. Deshmukh, learned counsel for the petitioners has pointed out the petitioners were given to understand that the representation made by Respondent No. 6 was rejected by MSRDCL as set in their affidavit. In fact, Mr. Mone has clarified that the representation of Respondent No. 6 for wholesome realignment of the Ring Road has been rejected and the representation has been partially considered in the manner as suggested in the decision of MSRDCL as contained in paragraph 3 of its communication dated 11 July, 2023 addressed to Respondent No. 6. The relevant paragraph of

the said communication reads thus:

“But, the relief to some extent may be granted by minor reducing the width of Right of Way (ROW) on RHS in the Ch.26/115 to Ch.26/676. This is possible by realigning the service road with 18.00 mtr. wide internal road constructed by you and which has already been handed over to PMRDA. This arrangement shall may save the building C-1 (Major structure with 14 floors) giving relief to you. Also, continuity of service road shall also be maintained.

Additionally, one additional VUP shall be provided for cross through fare/movement between two parts of the project layout. This shall ease the movement of commuters.

In the technical meeting, it was brought to notice that the order of CEO, PMRDA has been partially complied. You may submit revised layout plan to PMRDA as directed by Town Planner and Joint Commissioner, PMRDA, Akurdi, Pune.

Further, in view of this, it is kindly requested to co-operate in the land acquisition process so that the work of Pune Ring Road can be taken up at the early stage and completed in stipulated time

Superintending Engineer
Maharashtra State Road Development
Corporation, Camp office, Pune &
Member Secretary, Technical Committee

7. Disposed of in the aforesaid terms. No costs.

[SOMASEKHAR SUNDARESAN, J.]

[G. S. KULKARNI, J.]

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