

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2735 OF 2024

Nusrat Aziz Bobde ...Petitioner
Versus
The State of Maharashtra through Government ...Respondents
Pleader & Ors

WITH
WRIT PETITION NO. 8308 OF 2024

Arshad Asif Kotkar & Ors ...Petitioners
Versus
The State of Maharashtra & Ors ...Respondents

WITH
WRIT PETITION NO. 8310 OF 2024

Mujahid M Hussain Darji & Ors ...Petitioners
Versus
The State of Maharashtra through its Principal ...Respondents
Secretary Urban Development & Ors

WITH
WRIT PETITION NO. 8322 OF 2024

Atul Arun Kale & Anr ...Petitioners
Versus
The State of Maharashtra through its Principal ...Respondents
Secretary Urban Development & Ors

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**Mr Shahbaz Pathan, i/b HK Sharma, for the Petitioner in
WP/2735/2024.**

**Mr Sumit Kothari, i/b GJ Jain, for the Petitioners in WP/8308/2024,
WP/8310/2024 & WP/8322/2024.**

Mr NR Bubna, for Respondents Nos. 2 & 3 all matters.

Mrs MP Thakur, AGP, for Respondents Nos. 1, 4 & 5.

Mrs SR Crasto, AGP, for the Respondent-State in WP/8308/2024.

Mr SL Babar, AGP, for the Respondent-State in WP/8310/2024.

**Mr AA Alaspurkar, AGP, for the Respondent-State in
WP/8322/2024.**

**CORAM M.S. Sonak &
 Kamal Khata, JJ.
DATED: 13th June 2024**

PC:-

1. Heard learned Counsel for the parties.

2. The challenge in this Petition is to the orders made by the Bhiwandi Nizampur Municipal Corporation (“**Corporation**”) requiring the Petitioners to remove the portion of their structures so as to enable the Corporation to widen the road. In so far as Writ Petition No. 2735 of 2024 is concerned, the notice requires the removal of the Petitioner’s entire structure because the same is affected by road widening.

3. Learned Counsel for the Petitioners submit that in such matters the Corporation removes the structures for road widening but then refuses to pay or in any case unreasonably delays the

payment of compensation and other benefits under the scheme formulated by the Corporation itself.

4. Considering the contentions raised and balancing them with the dire need for road widening, we direct the Corporation to depute its officials to undertake a joint survey. The measurements of the structures, along with other necessary details, must be documented during this survey.

5. Mr Bubna, the Counsel for the Respondent Corporation, states that this exercise will be completed within 15 days from today, i.e., on or before 27th June 2024. The learned Counsel for the Corporation states that the Petitioner will also cooperate in this exercise and remain present on the appointed date for the joint measurement exercise.

6. Once the above exercise is complete, the structures or, in any event, the portions of the structures that are affected by the road widening plans can be removed. The Petitioner should not resist the removal of the structures or the portion of the structures affected by the road widening. These details are already provided in the notices that were issued before us. If, during the course of the survey, the Corporation officials find that any portions can be saved or some additional portions are necessary, the Petitioner should cooperate with the Corporation.

7. Within four weeks of removing structures or portions of structures, the Corporation must determine the compensation

amount payable to the Petitioners in accordance with law. Such compensation amount must then be paid to the Petitioners on or before 25 July 2024.

8. In case any of the Petitioners are aggrieved by the corporation's determination, they can always accept the compensation amount without prejudice and then take appropriate proceedings to claim the compensation that is, according to them, due and payable.

9. The interim orders, if any, are vacated subject no doubt to the above directions that a joint survey/joint measurement exercise must be completed within 15 days from today. Only after this exercise is completed can the structures or a portion of the structures be removed and demolished so that a proper record is available.

10. Learned Counsel for the Petitioners state that the Corporation also has a scheme to provide for alternate premises in lieu of the compensation. Again, it is open to the Corporation and the Petitioners to pay/accept the alternate premises in lieu of the compensation provided the same is available.

11. Further, Mr Bubna also states that the Petitioners will be given at least 48 hours' notice for the joint survey/measurements. Learned Counsel for the Petitioners states that the Petitioners will fully cooperate with the Corporation and not delay this exercise.

12. With the above directions, all these Petitions are disposed of.
No costs.

(Kamal Khata, J)

(M.S. Sonak, J)