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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4183 OF 2024

Kanaiyalal Purshottamdas Shah & Anr. ... Petitioners

vs.

The State of Maharashtra. ...Respondent

Ms. Asmita M. Rajbhor i/b. Vipul Shukla, for the Petitioners.

Smt. Uma Palsuledesai, AGP for State.

Mr. Akshay Shinde, for Respondent Nos.2 and 3 - MMRDA.

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

DATED: 25 November, 2024

P.C.

1. We refer to our order dated 3 October 2024 and the order dated 25 October 2024. We had issued directions to MMRDA to frame operational guidelines in regard to the land acquisition matters in relation to which MMRDA is involved, and more particularly, considering that the owners of the land who are senior citizens ought not to suffer in the process of MMRDA, undertaking acquisition of their lands and that all the formalities are effectively and expeditiously undertaken. In compliance of our orders, the MMRDA has framed "Operational Guidelines for the Land Acquisition Proposal at MMRDA". An affidavit of Mr. Padmakar Ramchandra Rokade, Additional Collector, Land Acquisition & Rehabilitation Cell, MMRDA, is filed on behalf

of MMRDA to place on record such guidelines. The followings are the guidelines which are framed by MMRDA.

“OPERATIONAL GUIDELINES FOR THE LAND ACQUISITION PROPOSAL AT MMRDA

Hon. High Court has directed in the case of WP No. 4183 of 2024 Kanhaiyalal Shah and 9 other v/s. MMRDA that since acquisition of the land under Metro Line -7 has been done in 2020 and reference were pending still 2024. Hon High Court has directed to prepare operational guidelines for speedy disposal of Land Acquisition proposals of MMRDA.

A guideline has been formulated as follows:

Sanction

1. The concern Engineering Department will prepare proposal for project requiring land acquisition. First Engineering Department / Land Acquisition Department to see whether land can be acquired by local body as per their prevailing provisions and Act. Then proposal will be submitted by concern JMC/AMC for sanction/approval of the Hon'ble MC. After granting sanction to the proposal, the approved proposal will be submitted for further necessary action to the Land Acquisition & Resettlement (Metro) department/Social Development Cell /Land & Estate Cell.

Decision

1. The Land Acquisition Department first need to decide whether the land to be acquired under Mumbai Metropolitan Region Development Authority act 1974 and if not possible then as per Mumbai Municipal Corporation Act 1888/ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 or Government Resolution at 12/05/2015 by Private Negotiation.

2. The Land Acquisition Department will submit the proposal for the joint measurement of the said land to the survey Department. The Government fees for measurement if any will be approved at the level of HOD of concerned Land Acquisition Department.

Rate calculation

1. If the land owner agrees with this terms of negotiation (consent) then, the procedure should to be expedited and finished within stipulated time period as per law.

2. If the land owner do not agree with the terms of negotiation (that is do not give consent) then compulsory land acquisition has to be preferably done under Mumbai Metropolitan Region Development Authority Act 1974 first and if not feasible then by Mumbai Municipal Corporation Act 1888 or Under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013. Depending upon the situation the Act be applied accordingly i.e. If the said land patch comes under scope of section 299, Mumbai Municipal Corporation Act 1888, then the section 301 will be applied.

3. When land is acquired at the MMRDA level by applying either by Mumbai Metropolitan Region Development Authority 1974, Mumbai Municipal Corporation Act 1888 or private negotiation, process be completed within stipulated time as per law including payment to the land owner.

4. If land acquisition is under The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013, the proposal needs to send to Collector of the concern area. The Monitoring committee to monitor the progress of the proposals and to get it completed within stipulated time as prescribed in law after sending of the proposal to the concern Collector including payment to the parties as per Law.

Grievance/Review

1. For the speedy disposal of existing proposals and new proposals a Monitoring committee under the chairmanship of Additional Collector will be appointed. The Committee shall take fortnightly review of all the proposals. (Including pending and new proposals) The pending proposals will be review with priority and to be completed at the earliest. This committee should follow up to the concern agencies for the progress of land acquisition.

The Committee will ensure that pending compensations are paid within 3 months or to deposit the amount with the Authority/ Tribunal as stipulated in Law. Monthly review of all the proposals including all the agencies including SLAO appointed by District Collector who is empowered under LARR act 2013 will be taken at Additional Metropolitan Commissioner of MMRDA level regularly.”

2. As the guidelines are framed, the MMRDA would strictly adhere to the aforesaid guidelines in dealing with the land acquisition matters and an

endeavour shall be made that the owners of the land are not put to any prejudice or any unwarranted delay in concluding such issues.

3. In view of the aforesaid observations, further orders are not required to be passed. The proceedings are accordingly concluded.

4. At this stage it is informed by learned Counsel for the petitioners that the petitioners require extension of time to file a Reference. Let the same be filed within four weeks from today. If the same is filed within such extended period, the Reference be adjudicated without an objection in regard to the limitation and on merits.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)