



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.370/2023

PETITIONER : Sau. Divya w/o Naresh Rawlani
Aged about - years, Occupation - 5
Private R/o Sai Nagar, Arvi Tahsil Arvi,
District Wardha.

...VERSUS...

RESPONDENTS : 1. State of Maharashtra through Principal
Secretary, Urban Development Dept. 10
Government of Maharashtra, Room
No.423 (Main), Mumbai 400 032.

2. State of Maharashtra through Collector,
Wardha, Collector Office, Civil Lines, 15
Wardha.

3. The Municipal Council, Arvi through
its Chief Executive Officer, Tahsil – Arvi
District Wardha. 20

Mr. K.J. Topale, Advocate for petitioner
Mr. N.R. Rode, AGP for respondent Nos.1 and 2
Mr. P.A. Dharaskar, Advocate for respondent No.3

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**CORAM : AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.**

DATE : 11/12/2024

ORAL JUDGMENT : (PER : AVINASH G. GHAROTE, J.) 30

1. Heard Mr. K.J. Topale, learned counsel for the
petitioner; Mr. H.R. Dhumale, learned Assistant Government Pleader
for the respondent Nos.1 and 2 and Mr. P.A. Dharaskar, learned
counsel for the respondent No.3. Rule. Rule made returnable

forthwith. Assistant Government Pleader Mr. H.R. Dhumale waives service of notice for the respondent Nos.1 and 2 and Advocate Mr. P.A. Dharaskar waives service of notice for the respondent No.3 on merits.

2. The petitioner claims compensation against the respondent No.3, to the extent of 0.10 HR from and out of land of Survey No.39, Mouza Ahmadnagar, Tahsil Arvi, District Wardha on account of the land being taken over by the respondent No.3 for the construction of a road. 5

3. Mr. Dharaskar, learned counsel for the respondent No.3 does not dispute that the land admeasuring 0.40 HR of Survey No.39 is owned by the petitioner and so also the fact that 0.10 HR of land from and out of the aforesaid land has been taken over by the respondent No.3 by constructing a road thereupon. What is being disputed is that since the land was converted to Non-Agriculture (NA) purpose by an order of the Tahsildar under Section 44 A of the Maharashtra Land Revenue Code, 1966 on 10/03/2021 (pg.22) the petitioner would have to leave service road, on account of which since the land of 0.10 HR would be within the service road area, no compensation would be payable. 10 15 20

4. In order to determine the exact nature of land under the road, we had directed joint measurement of the property, in

pursuance to which measurement report has been placed on record, of the measurement conducted on 28/11/2024, which indicates that land admeasuring 0.10 HR from and out of the land of Survey No.39 has gone under the road.

5. The contention of Mr. Dharaskar, learned counsel for the respondent No.3 has to be looked into in light of the terms of the NA order dated 10/03/2021, a perusal of which would indicate that the entire land of Survey No.39 admeasuring 0.40 HR stood converted to NA i.e. industrial use. It does not indicate anywhere that a plan was submitted demarcating the land into various plots for the purpose of construction of godowns. It is equally necessary to note that the Tahsildar under the provisions of Section 44 A of the Maharashtra Land Revenue Code, is not a Town Planning Authority, who alone has the power to approve a layout map. We have put a specific question to Mr. Topale, learned counsel for the petitioner as to whether any plan has been sanctioned by the Town Planning Authority upon the land of Survey No.3, which, upon instructions, he answers in the negative, which we accept.

6. That being the position, since there is no dispute, that the land to the extent of 0.10 HR from and out of land of Survey No.39 has been used by the respondent No.3 for construction of a road, it would necessary for the Municipal Council, Arvi to

determine the compensation and make payment of the same to the petitioner.

7. Mr. Dharaskar, learned counsel for the respondent No.3, upon instructions, states that a period of six months be granted for this purpose, accepting which, the compensation is directed to be determined and paid to the petitioner within a period of six months from today. 5

8. We also deem it necessary to reiterate our directions, as contained in the order dated 04/12/2024 that the respondent Nos.1 and 2 through the Collectors of all the Districts in the State are directed to instruct the Measurement Officers to indicate the Waslewari/details of measurement in the measurement-sheet (K-Prat) itself. This direction should be considered as a direction passed by the Court addressed to all the City Survey Officers/TILRs and any authority competent to conduct measurement and give a report under the relevant laws. The learned Assistant Government Pleader is also directed to ensure circulation of this order to all the concerned officers so that it should be complied in its letter and spirit, violation of which would make the officer open to an action for contempt of the aforesaid order. 10 15 20

9. Rule is made absolute in the aforesaid terms. No order as to costs.

10. The learned Assistant Government Pleader is directed to cause this order to be circulated to all the Measurement Officers throughout the State so that tomorrow a plea of absence of knowledge of the same may not be raised, in case a contempt is alleged against them for not indicating the Waslewari/detailed measurement in the measurement-sheet. 5

11. These directions regarding Waslewari/detailed measurement in the measurement-sheet are expected to be scrupulously followed by the authorities.

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(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)

Wadkar