



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO. 433 OF 2021

IN

WRIT PETITION NO. 10040 OF 2018

Damodhar Tukaram Raila

Age : 43 years, Occu : Agri, R/o Shradha
Colony, House No. 42, MHADA Colony, N.2,
CIDCO, Aurangabad.

... PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary, Industrial
Development Department, Mantralaya,
Mumbai – 32.
2. The District Collector, Aurangabad
Shri Uday Chaudhari
Age : 29 Years, Occu : Service, R/o
Aurangabad.
3. The Special Land Acquisition Officer,
Aurangabad
Shri Dhyanoba Banapure, Age : 45 Years,
Occu : Service, R/o Aurangabad.
4. The Maharashtra Industrial Development
Corporation, Aurangabad, through its
Divisional Officer, MIDC, Aurangabad.
Shri Rajesh Joshi, Age : 48 Years, Occu :
Service, R/o Aurangabad.
5. The Special Land Acquisition Officer,
Aurangabad.

... RESPONDENTS

Mr. A. B. Kale, Advocate for Petitioner.
Mr. S. J. Salgare, AGP for Respondent/State.

CORAM : NITIN B. SURYAWANSHI AND
ROHIT W. JOSHI, JJ.
RESERVED ON : APRIL 08, 2025.
PRONOUNCED ON : MAY 02, 2025

JUDGMENT - [PER ROHIT W. JOSHI, J.]

. The present Contempt Petition is filed drawing attention to alleged willful and deliberate non-compliance of the order dated 14/2/2019 passed by this Court in Writ Petition No. 10040 of 2018.

2. The land of the Petitioner bearing Gat No.128 admeasuring 0.38 HR was acquired by the Maharashtra Industrial Development Corporation, Aurangabad (*for short, 'MIDC'*) under the provisions of the Maharashtra Industrial Development Corporation Act, 1961. It is stated that since in the initial Award dated 28/5/2018, compensation was not awarded for the land owned by the Petitioner, he had filed a Petition being Writ Petition No. 10040 of 2018 *inter alia* seeking a writ of mandamus directing the Respondents to initiate land acquisition proceedings for acquisition of land bearing Gat No.128 owned by him.

3. After hearing the parties, this Court was pleased to dispose of the Writ Petition vide order dated 14/2/2019, directing the Respondents to examine the aspect of ownership of the Petitioner over the said land admeasuring 0.38 HR in Gat No.128, which was subject matter of the acquisition. It is further directed that in the event the Petitioner was found to be owner of the said land, then the competent authority should compensate him with respect to the said land, in accordance with law.

4. The contention of the Petitioner is that although a direction is issued for making payment of compensation of entire 0.38 HR land, the Special Land Acquisition Officer (*for short, 'SLAO'*)/MIDC has awarded compensation for 0.2660 HR land only and compensation is not awarded for remaining 0.1140 HR land.

5. The Respondent No.5 has filed affidavit-in-reply dated 19/6/2024. The Respondent no.5 has initially tendered unconditional apology in paragraph 2 of the affidavit. The Respondent No.5 has stated in paragraph 4 of the affidavit that land to the extent of 0.2660 HR is affected by the acquisition, and therefore, compensation is paid to the Petitioner for the said land. It is stated in the affidavit that Award was passed on 5/8/2019 and the amount so determined is remitted to the Petitioner. The Respondent No.5 has

pointed out that the Petitioner has initiated Reference as per Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 before the competent authority, which is pending for adjudication.

6. In view of the aforesaid, Respondent No.5 contends that the order passed by this Court is duly complied with and that the allegation of non-compliance of the order is misconceived.

7. A copy of the Award dated 5/8/2019 is annexed to the reply-affidavit as 'Exhibit R-2'. Perusal of the Award will demonstrate that 0.38 HR land is acquired by the Respondent/MIDC. It transpires from reading of the Award that width of the D.P Road is 30 mtrs. The Award makes a reference to letter issued by the Assistant Director of Town Planning dated 8/4/2019, wherein it is stated that the compensation should be awarded for road-width of 21 mtrs., out of the total road-width of 30 mtrs., by making a deduction of 9 mtrs. On making such deduction, compensation is paid for 0.2660 HR. The Respondent No.5 has recorded in the Award that a layout was sanctioned for 1.21 HR land in Gat No.21 and a layout plan with respect to 0.962 HR was got sanctioned and in the sanctioned layout plan remaining 24.80 HR land is shown as covered under D. P. Road.

8. It will be pertinent to mention here that the Respondent No.5 has filed additional affidavit-in-reply dated 10/3/2025. In the said additional affidavit, the act is sought to be justified by stating that as per regulation 12.03 of the Standardised Development Control and Promotion Regulation (*for short, 'SDCPR'*), 9 mtrs. service road was required to be provided in the sanctioned layout in Gat No.128. The Respondent No.5 has filed relevant extract of the SDCPR to point out that width of internal road should be 9 mtrs. The deduction is sought to be justified on this ground.

9. Mr. Kale, learned Counsel for the Contempt Petitioner contended that the order passed by this Court is clear and unambiguous. He argues that in view of the explicit order passed by this Court, compensation for entire 0.38 HR ought to have been awarded. He contends that making deduction in the area demonstrates wilful and deliberate breach of order passed by this Court, which according to him, is an act of contempt within the meaning of Section 2(b) of the Contempt of Courts Act, 1971 (*for short, 'the Act of 1971'*), which is punishable under Section 10 of the said Act.

10. Mr. Kale, the learned Counsel for Contempt Petitioner has placed reliance on the following Judgments :

- The Judgment dated 16/6/2011 passed by this Court in Writ Petition No. 481/2006;

- The Judgment passed by the Division Bench of this Court in Writ Petition No. 2486/2018 (Kishor Sharad Borawake and Another V/s State of Maharashtra and Others) along with connected Writ Petition, 2019 SCC OnLine Bom. 1193;
- The Judgment passed by the Co-ordinate Bench of this Court in the matter of Sadashiv Madhav Shelke V/s State of Maharashtra and Another, 2019 SCC OnLine Bom 6489;
- The Judgment passed by the Division Bench of this Court in the matter of State of Maharashtra V/s Bhimashankar Sidramappa Chippa, 2009 SCC OnLine Bom 707; and
- The Judgment of the Hon'ble Supreme Court in the matter of Pt. Chet Ram Vashist (dead) by L.Rs. V/s Municipal Corporation of Delhi, (1995) 1 Supreme Court Cases 47;

to contend that compensation is required to be paid for the entire acquired land and further that compensation cannot be deprived for the area to be covered under layout road. The ratio of these Judgments is that while sanctioning a layout, the Planning Authority cannot acquire ownership over open spaces and amenities spaces free of cost from the land owner. In the case of *Sadashiv Madhav Shelke (supra)*, this Court has held that when a D. P. Road passes through a layout, the State has to pay compensation for the portion of land under the D. P. Road. It is also held that under the provisions the Maharashtra Regional Town Planning Act, 1966, the sanctioning authority can impose conditions with respect to internal roads, however, compensation will have to be paid for the D. P. Road.

11. As against this, Mr. Salgare, the learned AGP contends that the parties are at a *bona fide* issues with respect to entitlement of the Petitioner to receive compensation for the stretch of 9 mtrs. width of the road. He contends that according to the authority, deduction of 9 mtrs. road width was required to be made as per the sanctioned layout plan. According to him, the provisions of the Act of 1971 should not be invoked in such a case of *bona fide* dispute between the parties. He further argues that the Petitioner has already initiated proceedings for enhancement of compensation and the issue, which is sought to be agitated in the present Contempt Petition, can be raised before the said authority.

12. Having heard the rival submissions, we are of the considered opinion that the parties are at a *bona fide* dispute with respect to entitlement of the Petitioner to claim compensation for 9 mtrs. width of the road, which is required to be left as per the sanctioned layout plan. It does not appear that there is any wilful or deliberate non-compliance by the Respondents/ Authorities of the order passed by this Court.

13. The order passed by this Court in Writ Petition directs payment of compensation to the Petitioner for 0.38 HR land, in accordance with law. It is the contention of the Respondents that the Petitioner is not entitled for compensation for the road width of 9 mtrs. in accordance with law, since that

is a part of layout road which is now covered under D. P. Road. It is well settled that when an order is capable of two interpretations, and the alleged Contemnor adopts one of them and acts accordingly, action under the Act of 1971 cannot be initiated.

14. We are of the opinion that such an issue regarding entitlement of the Petitioner will be beyond our province while dealing with a Contempt Petition. The contention raised in the reply-affidavit appears to be *bona fide*. In the facts of the case, it cannot be said that the Respondents/Authorities have wilfully or deliberately not complied with the order passed by this Court, directing payment of compensation. The Respondent/Land Acquisition Officer has passed an Award granting compensation to the Petitioner. The deduction by the Land Acquisition Officer also does not appear to be unilateral. It appears from the Award that the SLAO has acted as per advise given by the Assistant Director, Town Planning. In that view of the matter, we are inclined to accept the explanation offered by the Respondent No.5 for not making payment of compensation for 9 mtrs. wide stretch of the road passing through the land of the Petitioner.

15. The Judgments pressed into service by Mr. Kale pertain to open spaces and amenities spaces. In one of the cases, in the matter of ***Sadashiv Madhav Shelke (supra)***, it is held that compensation has to be paid for D. P.

Road passing through a layout, since the land for D. P. Road cannot be utilized without payment of compensation. There cannot be any dispute with respect to ratio laid down in the aforesaid Judgments. However, as stated above, these cases are pertaining to open spaces, amenities spaces and D. P. Road. These cases are not pertaining to land under internal roads of a sanctioned layout. Apart from this, as stated above, adjudication of a claim is beyond the jurisdiction of this Court while entertaining a Contempt Petition in exercise of powers under the Act of 1971 as also Article 215 of the Constitution of India.

16. In that view of the matter we do not deem it appropriate to invoke our jurisdiction under the Act of 1971 or under Article 215 of the Constitution of India. The Contempt Petition stands dismissed.

17. However, it is clarified that we have not adjudicated the controversy between the parties on merits. We have merely held that there is a *bona fide* dispute between the parties, and therefore, provisions of the Act of 1971 cannot be invoked. The Petitioner is at liberty to seek redressal of his grievance in accordance with law, including in the reference proceedings filed by him, if it is otherwise permissible in law.

(ROHIT W. JOSHI, J.)

(NITIN B. SURYAWANSHI, J.)