



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.17835 OF 2024

Jaychand Shantilal Surana & Anr.

...Petitioners

Versus

Barshi Municipal Council,

Through its Chief Executive Officer & Ors.

...Respondents

Mr. A. M. Kulkarni i/b. Mr. Akshay Kulkarni for the Petitioners.

Mr. J. G. Aradwad (Reddy) for Respondent No.1.

Ms. Savina R. Crasto, AGP for Respondent Nos.2 and 3.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.

DATED : 24 April 2025

PC.:- (Per M. S. Sonak, J.)

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.
3. On 2 January 2025, we made the following order:-

- "1. Mr Kulkarni, learned counsel appears for the Petitioners and Ms Raje, learned AGP appears for Respondent Nos.2 and 3.*
- 2. Issue notice to the first Respondent, returnable on 6 February 2025.*
- 3. In addition to the usual mode of service, private service/Hamdast is allowed. The Petitioners must file affidavit of service.*
- 4. The first Respondent must file and serve an affidavit in response to this Petition by 30 January 2025. Similarly, even the second and third Respondents should file an affidavit stating whether they have received any proposal for acquisition of the Petitioners' property from the first Respondent and the steps taken towards such acquisition.*
- 5. The Petition alleges that first Respondent constructed a road on the Petitioners' property without acquiring the same. Accordingly, the Petitioners had instituted Writ Petition No.14111 of 2016 seeking either the restoration of the Petitioners' land or for a direction upon*

the Respondents to acquire the same and pay the Petitioners compensation.

- 6. Writ Petition No.14111 of 2016 was disposed of by order dated 29 March 2023. The first Respondent was directed to commence the acquisition proceedings so that the Petitioners obtain compensation in respect of the acquired land. The Petitioners complain that till date there is no acquisition and consequently, no compensation has been paid by any of the Respondents to the Petitioners.*
- 7. At least prima facie, the authorities cannot take over the Petitioners' property and then refused to pay any compensation for all these years. Therefore, all the Respondents must file and serve their affidavits by 30 January 2025 explaining the status of compensation.*
- 8. The Petitioners are also granted leave to file an additional affidavit indicating tentatively the compensation amount that would become payable to the Petitioners. The affidavit, if possible, must be backed by some credible material in support of the compensation amount. Such an affidavit should also be filed and served by 30 January 2025.*
- 9. List the matter on 6 February 2025."*

4. Pursuant to the above order, the Barshi Municipal Council (Respondent No.1) and the State (Respondent No.2) have filed affidavits.

5. Both affidavits state that proceedings for the acquisition of the Petitioners' property have already commenced. Learned counsel for Barshi Municipal Council states that 50% of the tentative compensation amount Rs. 40,13,212/- has already been deposited by the Council with the State Government. Learned AGP confirms the receipt of this amount.

6. Mr. Kulkarni states that the Petitioners have also filed an affidavit tentatively indicating the compensation that would become payable to them. He says that this compensation comes to Rs. 4,52,31,688.3/-. Learned counsel for the Respondents points out that this determination is exaggerated and excessive.

7. At this stage, we are not deciding on the issue of compensation. The only reason we directed the Petitioners to furnish a tentative estimate was that, in this case, the Petitioners' property was taken over *prima facie* possession in 2014, and neither acquisition proceedings were initiated nor compensation paid to the Petitioners.

8. Now that acquisition proceedings have commenced, we direct the State Government to complete such acquisition proceedings as expeditiously as possible and in any event within six months from today. Such acquisition proceedings should be concluded by making an award determining the compensation amount. Suppose such a determination aggrieves the Petitioners. In that case, it will be open to the Petitioners to seek appropriate remedies as provided under the law, including, for a reference to seek enhancement of compensation.

9. In the peculiar facts of this case, since the possession of the Petitioners' property was taken over *prima facie* in 2014 and no compensation has been paid to the Petitioners, we direct that the Petitioners be paid Rs. 20 lakhs on or before 15 June 2025. This amount must be adjusted from the total compensation to be determined and ultimately found payable to the Petitioners. This payment will abide by such determination.

10. All contentions of all parties regarding the compensation issue are left open.

11. The Rule is made absolute in the above terms without any cost order.

12. All concerned to act on an authenticated copy of this order.

(Jitendra Jain, J.)

(M. S. Sonak, J.)