

Bombay High Court

The Kolhapur Municipal ... vs Shri. Vasant Mahadeo Patil (Since ... on 10 December, 2018)

Bench: A.S. Oka

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2461 OF 2018
IN
WRIT PETITION NO.5310 OF 2018

The Kolhapur Municipal Corporation	... Applicant
In the matter between	
Shri. Vasant Mahadev Patil (deceased)	
through legal heirs and Ors.	... Petitioners
Vs.	
The State of Maharashtra and Ors.	... Respondents

Mr. Shrikrishna R. Ganbavale for the Petitioners.
Mr. Deelip N. Patil Bankar for the Applicant.

CORAM : A.S.OKA AND
RIYAZ I. CHAGLA, JJ.
DATE : 10th DECEMBER 2018.
[In Chamber at 5.00 pm]

P.C. :

1 This is an application for modification of the order dated 13 th

August 2018 passed by this Court. By the said judgment and order, writ petition filed by the respondents in this application was disposed of by directing the applicant - Municipal Corporation to complete the acquisition proceedings within the time schedule fixed thereunder. There are two prayers in this application. The first substantive prayer is for directing the writ petitioners to accept the TDR in lieu of monetary 1 of 2 2 caw-2461.18.docx compensation. The said prayer cannot be granted inasmuch as under clause (b) of sub-section (1) of section 126 of the Maharashtra Regional and Town Planning Act, 1966, acquisition can be made by granting TDR only with the consent of the parties and obviously the writ petitioners are not consenting. The second part of the first prayer is for directing that in the event of failure of the applicant - Corporation to deposit the amount, consequences under the Maharashtra Regional and Town Planning Act, 1966 and the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013 should follow. Such a relief cannot be granted inasmuch as the applicant - Corporation has not complied with the directions issued under the final judgment.

2 The next prayer is based on the contention that the land subject matter of the writ petition is not required for STP. Again such a prayer cannot be granted in a disposed of writ petition.

3 The application is misconceived and the same is rejected.

(RIYAZ I. CHAGLA, J.)

(A.S.0KA, J.)

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