

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 122 of 2016

Shri Mahesh Shantilal Mehta
Sole Proprietor of M/s. Surya Kirti EnterprisesPetitioner
versus
The Union of India, through
Ministry of Railways and ors.Respondents

Mr. V. P. Sawant i/b. Mr. Kirit J. Hakani, advocate for the petitioner.
Mr. T. J. Pandian, advocate for the respondent No.1.
Mr. A. B. Kadam along with Ms. K.H. Mastakar, advocate for the
Corporation.
Mr. Milind More, AGP for the State.

**CORAM : RANJIT MORE &
REVATI MOHITE DERE, JJ.**

DATE : 18th DECEMBER, 2018.

P. C. :

Heard learned counsel and learned AGP appearing for the
respective parties.

2. It is the case of the petitioner that he is the owner of the
subject land admeasuring about 325.17 sq.mtrs.. In the Development
Plan for Greater Mumbai 1991, this land was reserved for Central
Railway Buffer 15.24 meters wide. Since no action was taken by the
respondent No.1/planning authority for a period of 10 years, notice
under section 127 of the Maharashtra Regional and Town Planning Act,

1966, was given by the petitioner on 8th November, 2014. This notice has been received by the respondent No.1, however, no steps for acquisition are taken. The contention of the petitioner is that in the above circumstances, the reservation of the subject land has lapsed.

3. Having gone through the record, we find that no steps are taken to acquire the subject land within stipulated period of one year and, therefore, the subject reservation has already lapsed. However, on behalf of Corporation, an affidavit-in-reply is filed by one Pramod U. Vaidya, the Designated Officer, Asst. Eng.(D.P.) NST dated 7th December, 2018. In paragraph 16, page 71, following averments are made :

"16. I say that in view of new reservation in DP-2034 as DP Road, the abovesaid land is required for MCGM for development of road to maintain the continuity of movement of traffic. I say that MCGM will acquire the land as per provisions of law by paying necessary compensation in lieu of TDR. I say that if the Petitioner road to maintain the continuity of movement of traffic. I say that MCGM will acquire the land as per provisions of law by paying necessary compensation in lieu of TDR. I say that if the Petitioner agrees for the above proposal of MCGM or else MCGM will process the proposal for acquisition of the said land with the sanction of Improvement Committee/Corporation, if approved, this office will submit the proposal to Collector (MSD) to start the process of acquisition in respect of the land bearing CTS No.4029, 4030, 4031, 4032, 4033/A and 4033/B of Village Ghatkopar-Kirol reserved for 15.25 M. DP Road in DP-2034."

4. Thus, the subject land is designated for DP Road in 2034

Development Plan. The learned counsel for the Corporation submits that the Corporation needs this land and, therefore, the Corporation is also ready and willing to acquire the same under the relevant provisions of law by paying compensation in lieu of TDR. Mr. Sawant, learned counsel for the petitioner, has no objection for acquisition of the subject land by the Corporation on payment of compensation as per law. However, he submits that there should be some outer limit to complete the entire acquisition process. The learned counsel for the Corporation as well as learned AGP also stated the the acquisition would be completed expeditiously.

5. In the light of the above, we dispose of this petition by passing the following order :

- 1) The Corporation-respondent No.2 shall get sanction of the Improvement Committee for acquisition of the subject land for the purpose of DP Road within a period of six months from today.
- 2) The Corporation thereafter shall send a proposal of acquisition of the subject land to the Collector, Mumbai Suburban District. The Collector, thereafter, shall conduct joint measurement survey and also verify the title and inform the Corporation about approximate money which is

required to be deposited by the Corporation. The Corporation, thereafter, shall deposit the required money with the Collector for the purpose of acquisition of the land. This exercise shall be completed within a period of four months.

- 3) The Collector, thereafter, shall start the proceedings for acquisition and complete the same by passing an award within a period of 8 months from the date of depositing of the required money by the Corporation towards acquisition of the subject land.
- 4) In the event, the subject land is not acquired within the stipulated period of 18 months by the Corporation, the petitioner is at liberty to apply to this Court.

6. In view of the disposal of the petition, the chamber summons No. 210 of 2018 will not survive for consideration and the same is also disposed of.

[REVATI MOHITE DERE, J.]

[RANJIT MORE, J.]