



ppn

1

902.wp-5173.22.doc

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.5173 OF 2022

Godrej & Boyce Manufacturing Co. Ltd. .. Petitioner
Versus
Union of India & Ors. .. Respondents

Mr. Navroz Seervai, Senior Advocate with Mr. Bhushan Deshmukh i/by
M/s. Bachubai Munim & Co. for the Petitioner.

Mr. Anil Singh, ASG along with Mr. Aditya Thakkar, Ms.Savita Ganoo
and Mr. D.P. Singh, for the Respondent Nos. 1 and 2.

Mr. Himanshu Takke, AGP, State for Respondent No.3-State.

Ms. Shilpa Redkar i/b Mr. Sunil Sonawane for Respondent Nos. 4 to 7 –
M.C.G.M.

Mr. Prashant Kamat, Asst. Engineer (DP), M.C.G.M. officer present in
Court.

Mr. Prafull Chilwirwar, Divisional Engineer (LM), officer of Respondent
Nos.1 and 2 is present in Court.

**CORAM : R.D. DHANUKA &
M.M. SATHAYE, JJ.**
DATE : 27th January 2023

P.C.:-

. Rule. Mr.Singh, ASG for the respondent nos.1 & 2 waives
service. Mr.Takke, AGP for the respondent no.3 waives service.
Ms.Redkar, learned counsel for the respondent nos.4 to 7 waives service.
Rule is made returnable forthwith.

2. By this petition filed under Article 226 of the Constitution of



ppn

2

902.wp-5173.22.doc

India, the petitioners seek a writ of mandamus against the respondents to initiate and complete the acquisition culminating into award under Section 30 of the Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the Act of 2013”) in respect of the writ property i.e. C.S. No.64, Parel Division admeasuring about 248.33 sq.mtrs., possession of which was taken over on 28th November 2017.

3. It is the common ground that the Municipal Corporation was approached by the Divisional Railway Manager, Central Railway for acquisition of the writ property for the purpose of construction of foot over bridge. In pursuance of the said request, the Municipal Corporation called upon the Railway to deposit certain amounts. The Railway has deposited a sum of Rs.5,19,34,722/- with the Municipal Corporation and the Municipal Corporation, in turn, paid a sum of Rs.4,54,96,618/- to the petitioner. The possession of the writ property is already taken. The Railway has already carried out certain construction work on the writ property.

4. A perusal of the correspondence on record indicates that the Municipal Corporation as well as the Special Land Acquisition Officer demanded certain amounts to be deposited with the Municipal Corporation.

5. We are informed that the authority under the provisions of the Act of 2013 has already issued a notification under Section 19 on 26th March 2018 for acquiring the writ property.



ppn

3

902.wp-5173.22.doc

6. Mr.Seervai, learned senior counsel for the petitioner states that the steps are already taken for acquiring the writ property, however, there is gross delay in concluding the acquisition proceedings and to make an award under the provisions of the Act of 2013.

7. Learned ASG, on the other hand, invited our attention to the correspondence exchanged between the petitioner and the Municipal Corporation and submitted that in so far as the obligation on the part of the Railway is concerned, the Railway has already deposited a sum of Rs.5,19,34,722/- with the Municipal Corporation towards one of the steps in acquisition. He submitted that the Railway is not required to take further steps in acquisition at this stage. The Railway has no objection if the said writ property is acquired.

8. Learned counsel for the Municipal Corporation submitted that if any further amount is required to be deposited by the Municipal Corporation with the authority under the provisions of the Act of 2013, the Railway shall deposit further amount with the Municipal Corporation to enable the Municipal Corporation to deposit such amount with the authority.

9. Learned ASG submitted that whatever is the obligation of the Railway for the purpose of deposit or otherwise so as to complete the acquisition, would be complied with by the Railway according to law. Statement is accepted.

10. Mr.Takke, learned AGP, on the other hand, submitted that so far no amount has been deposited by the Municipal Corporation with



ppn

4

902.wp-5173.22.doc

the authority under the provisions of the Act of 2013 and thus till such amount is deposited by the Municipal Corporation, the authority is not required to take further steps in acquisition. It is however, pointed out that the notification under Section 19 of the Act of 2013 is already issued as far back as on 26th March 2018.

11. It is not in dispute that before approaching the authority under the provision of the Act of 2013, there were private negotiation going on between the petitioner and the Railway. In pursuance of the private negotiation, the Railway has deposited a sum of Rs.5,19,34,722/- with the Municipal Corporation and the Municipal Corporation, in turn, has paid a sum of Rs.4,54,96,618/- to the petitioner.

12. In our view, the authority under the provisions of the Act of 2013 is thus not required to ask for further deposit from the Municipal Corporation at this stage.

13. It is however, made clear that while making the final award, if any further amount is required to be deposited by the Municipal Corporation with the authority, upon raising a demand by the authority from the Municipal Corporation and upon raising a demand by the Municipal Corporation from the Railway, such amount shall be deposited as per the provisions of the said Act of 2013. In view of the fact that the notification under Section 19 is already issued by the authority, the authority is directed to take further steps to complete the acquisition proceedings and to make an award expeditiously and within the time prescribed under the provisions of the Act of 2013.



ppn

5

902.wp-5173.22.doc

14. Writ petition is allowed in aforesaid terms. Rule is made absolute accordingly. Parties to act on the authenticated copy of this order.

M.M. SATHAYE, J.

R.D. DHANUKA, J.



LEGALERA
BY THE PEOPLE. FOR THE PEOPLE. OF THE PEOPLE