

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

***CIVIL APPELLATE JURISDICTION***

**WRIT PETITION NO. 1041 OF 2021**

**M/s. Triveni Developers**

**..... Petitioner**

**VERSUS**

**UT of Dadra and Nagar Haveli  
Through its Administrator & Ors.**

**..... Respondents**

Mr. G.S.Godbole, i/b. Mr.Shivraj Patne for the Petitioner.

Mr.H.S.Venegaonkar for the Respondent nos. 1, 3 and 4.

**CORAM: R. D. DHANUKA AND  
MADHAV J.JAMDAR, JJ.**

**DATE : 14<sup>th</sup> JUNE, 2022**

**P.C:-**

By this petition filed under Article 226 of the Constitution of India, the petitioner seeks writ of mandamus directing the respondent nos. 1 to invoke the provisions of section 40 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in respect of acquired land of the petitioner bearing Survey No.66/1/127/2/1 (Part) admeasuring 480 sq.mtrs. situated at Triveni Industrial Estate of Danudyog Sahakari Sangh Ltd. at Pipariya, Silvassa and to pass an award under section 23 of the Right

to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2. Mr. Godbole, learned counsel for the petitioner invited our attention to the order dated 22<sup>nd</sup> February, 2019 passed by the Division Bench of this Court in Writ Petition No. 13040 of 2017 filed by the petitioner against the administrator, Union Territory of the Daman and Diu and Dadra Nagar Haveli & Others. He submits that the possession of the land has been already taken. This Court has recorded this fact in paragraph (1) of the said order. This Court directed that the compensation be determined and be paid to the petitioner within the time stipulated. Though this Court had directed the respondent to complete the land acquisition proceedings for determining the amount of compensation to be paid to the petitioner and make payment as expeditiously as possible preferably within a period of one year from the date of the said order, neither the acquisition proceedings are completed nor any payment is made to the petitioner.

3. Mr. Venegaonkar, learned counsel for the respondent nos. 1, 3 and 4 tenders a copy of the letter dated 17<sup>th</sup> November, 2020 addressed

by the respondent no.5 to the Land Acquisition Officer informing that there is encroachment on adjoining government road to Piparia Sub-Station. After clearing the said encroachment from the Government Road (Survey No.66/1/127/2/1P/3), the proposal for acquisition of land in respect of Survey No.66/1/127/2/1P had been dropped. He submits that pursuant to the said letter dated 17<sup>th</sup> November, 2020, the acquisition proceedings are already dropped. He submits that as a matter of record, the acquisition proceedings in respect of the land in question has not been started and thus the question of taking possession of the land from the petitioner did not arise.

4. Mr.Godbole, learned counsel for the petitioner strongly objects to the statement made by the statement made by the respondent nos. 1, 2 and 4 and once again invited our attention to the order dated 22<sup>nd</sup> February, 2019 passed by this Court in Writ Petition No. 13040 of 2017 and would submit that this Court had already recorded the statement made by the learned counsel for the respondent nos. 1 and 3 to 5 in that petition that the acquisition proceedings in accordance with the provisions of the said Act had been already initiated and the amount of compensation payable to the petitioner in respect of the land already

taken possession has been determined. He submits that the respondent thus cannot dispute the factum of the possession of the land of the petitioner at this stage.

5. Since the respondent no.5 is not present before this Court, we direct the Office to issue notice to the respondent no.5 with a direction to remain present before this Court on 30<sup>th</sup> June, 2022. Humdast is permitted. In addition to the court notice, the petitioner is permitted to serve the respondent no.5 by private service. The respondent no.5 shall file affidavit in this Court within two weeks from the date of service of the papers and proceedings and shall indicate whether the possession of the land of the petitioner bearing no. Survey No.66/1/127/2/1P has been already taken by the respondent no.5 or not and if taken, in view of the proposal and request of the respondent no.5, the land acquisition proceedings to be dropped and as to when the possession of the said plot would be returned to the petitioner.

6. Copy of the affidavit in reply shall be served upon the learned counsel for the petitioner and also upon the respondent nos. 1, 3 and 4 through their counsel simultaneously. Rejoinder, if any, shall be filed

within one week thereafter.

7. Place the matter **High on Board** for admission on **30<sup>th</sup> June, 2022.**

**[MADHAV J. JAMDAR, J.]**

**[R. D. DHANUKA, J.]**