

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8309 OF 2026

Bhaskar Namdev Thakur and Others	...Petitioners
Versus	
Thane Municipal Corporation and Others	...Respondents

**VISHAL
SUBHASH
PAREKAR**

Digitally signed by
VISHAL SUBHASH
PAREKAR
Date: 2026.09.11
17:46:27 +0530

Mr. Vivek Salunke, for the Petitioners
Mr. R.S. Apte, Senior Advocate a/w. Mr. Aniesh Jadhav, Mr. Shyam Singh, Mr. Rushikesh Kekane and Ms. Nikita Kaushik, for Respondent Nos. 1 to 3.
Smt. G.R. Raghuwanshi, AGP, for the State.

**CORAM : MANISH PITALE AND
SHREERAM V. SHIRSAT, JJ.**

DATE : 11th SEPTEMBER, 2026

ORAL ORDER :

1. Heard learned counsel for the parties.
2. The Petitioners have approached this Court, being aggrieved by the actions of the Respondents in seeking to utilize the land belonging to the Petitioners for the purpose of construction of Development Plan Road, without undertaking any steps towards acquisition of the subject land and payment of monetary compensation for the same.
3. The Respondent Municipal Corporation offered Transferable

Development Rights (TDR) / FSI as compensation to Petitioners for the proposed utilization of their land, but the Petitioners are not agreeable to compensation by way of TDR and they insist on being paid monetary compensation.

4. The subject land is described in paragraph 3(a) of the Writ Petition. Perusal of the same shows that a part of the land belonging to the Petitioners in Thane is to be utilized for construction of Development Plan Road by the Respondent Municipal Corporation.

5. On 10.07.2026, this Court, while issuing notice for final disposal, referred to the Full Bench judgment of this Court in the case of **Shree Vinayak Builders and Developers, Nagpur vs. State of Maharashtra and Others**¹, which laid down the position of law that compensation in the form of TDR/FSI cannot be forced unilaterally by the planning authority or the acquiring body on the landowners.

6. In response to the notice issued by this Court, the Respondent Municipal Corporation has filed affidavit in reply. In the said affidavit, the Respondent Municipal Corporation has referred to the reservation affecting the land and the necessity of construction of the road. It is further stated that the Respondent Municipal Corporation is offering

¹ 2022 (4) Mh.L.J. 739.

TDR as it presently does not have the financial capacity to offer monetary compensation.

7. The learned Senior Counsel appearing for the Respondent Municipal Corporation submitted that the offer of TDR can be said to be attractive in the facts and circumstances of the present case, and if the Petitioners are agreeable, the matter can be amicably resolved. But the learned counsel appearing for the Petitioners has instructions not to give consent for compensation by way of TDR/FSI for utilization of the subject land belonging to them.

8. In the case of **Shree Vinayak Builders** (supra), one of the questions framed for consideration was as to whether, the modes of acquisition provided as per Section 126(1)(a) and (b) of the Maharashtra Regional and Town Planning Act, 1966, are at the choice of either of the parties or only of the acquiring authority. The said question was answered in paragraph 43 of the said judgment by holding that the aforesaid acquisition has to be by consensus between both the parties and not only at the option of the acquiring authority. It was specifically held that compensation by way of TDR/FSI cannot be forced upon the landowners and that their consent to accept compensation in the aforesaid mode is a *sine qua non*.

9. The said position of law has been followed in subsequent judgments and orders passed by this Court in the cases of **Purnima Talkies vs. Chief Officer, Dahanu Nagar Parishad and Others** (judgment and order dated 20.02.2025 passed in Writ Petition No. 11543 of 2024) and judgment and order dated 30.01.2026 passed in Writ Petition (L) No. 19414 of 2024 (**Jyoti Baliram Thorat and Others vs. MMRDA and Others**).

10. Applying the said position of law to the facts of the present case, we find that if the subject lands belonging to the Petitioners are to be utilized for construction of the Development Plan Road by the Respondent Municipal Corporation, necessary steps ought to be taken to acquire the subject lands and to pay just, fair, and reasonable compensation.

11. The Petitioners have categorically stated that they are not giving their consent for being compensated by way of TDR/FSI and that they insist on being paid monetary compensation. In such a situation, the Respondent Municipal Corporation cannot unilaterally force the Petitioners to accept TDR/FSI as compensation on the specious plea that it presently does not have the financial capacity to pay monetary compensation. If the subject lands of the Petitioners are to be utilized

for construction of the Development Plan Road, they must be paid compensation in recognition of their right to property under Article 300A of the Constitution of India.

12. Although the said right has no longer remained a Fundamental Right, as per judgments of the Supreme Court in various cases, including in the case of **Kolkata Municipal Corporation and Anr. vs. Bimal Kumar Shah and Ors.**² the aforesaid right is now recognized as a valuable human right which cannot be casually trampled upon by acquiring bodies. As a matter of fact, in the said judgment, the Supreme Court has recognized seven sub-rights of the said valuable right to property, which include , right to notice, right to be heard, right to a reasoned decision, the duty to acquire only for public purpose, the right of restitution or fair compensation, the right to an efficient and expeditious process, and the right of conclusion. Several of the sub-rights of the Petitioners recognized by the Supreme Court, and particularly the right to fair compensation, would stand violated if the Respondent Municipal Corporation proceeds to construct the DP road in the subject lands of the Petitioners without taking any steps for acquisition of the same and making payment of just, fair, and

² (2024) 10 SCC 533.

reasonable compensation.

13. In view of the above, we are of the opinion that the present Petition deserves to be allowed in terms of prayer clauses (b), (c), and (d), which read as follows:

(b) By suitable writ, order or direction this Court may be pleased to direct the present Respondent Nos. 1 to 3 to acquire the subject property belonging to the Petitioners under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 in the absence of any agreement with respect to acceptance of TDR / FSI and accordingly the Respondents be directed to pay to the Petitioners the monetary compensation and other awardable benefits under the said Act of 2013;

(c) By suitable writ, order or direction this Court may be pleased to quash and set aside communication dated 14/01/2025 [Exhibit 'G' hereto] issued by the present Respondent No. 3;

(d) By suitable writ, order or direction, this Court may be pleased to direct the Respondents not to disturb the peaceful possession of the present Petitioners till monetary compensation is paid to the Petitioners.

14. Since the Respondent Municipal Corporation is interested in

taking forward its work of construction of Development Plan Road, it is only in the interest of the said object of the Respondent Municipal Corporation to expeditiously complete the exercise of acquiring the subject lands and disbursing the monetary compensation.

15. In any case, the exercise to be undertaken by the Respondents, including the Respondent Municipal Corporation, in terms of prayer clause (b), shall be completed within six months from the date of this order.

(SHREERAM V. SHIRSAT, J.)

(MANISH PITALE, J.)