

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

WRIT PETITION NO.2256 OF 2014

- 1) Dnyaneshwar s/o Laxman Mhaske
Age: 77 Yrs., occu. Agril.
- 2) Bhausahab s/o Laxmanrao Mhaske,
Age: 74 Yrs., occu. Agril.
- 3) Lahanu s/o Gangadhar Mhaske,
Age: 70 Yrs., occu. Agril.
- 4) Gulab s/o Narayan Khobre,
Age: 42 Yrs., occu. Agril.
- 5) Punja s/o Yadav Mhaske,
Age: 36 Yrs., occu. Agril.
- 6) Punja s/o Hari Mhaske,
Age: 35 Yrs., occu. Agril.

All R/o Babhaleshwar,
Tq.Rahata, Dist. Ahmednagar.

- PETITIONERS

VERSUS

- 1) The State of Maharashtra
Through the Secretary,
Revenue & Forest Deptt.,
Mantralaya, Mumbai-400 032.
- 2) The Collector, Ahmednagar,
Dist. Ahmednagar.
- 3) The Special Land Acquisition
Officer, No.9, Ahmednagar,
Dist.Ahmednagar.
- 4) The Executive Engineer,
Maharashtra Jeevan Pradhikaran,
Shrirampur, Dist.Ahmednagar.
- 5) The Zilla Parishad, Ahmednagar
Dist.Ahmednagar,
Through its Chief Executive
Officer.

- RESPONDENTS

Mr.Dattatraya R.Jayabhar, Advocate for Petitioner/s
Mrs.AV Gondhalekar, Addl.GP for Resp.Nos.1 to 3;
Mr.DP Bakshi, Advocate for Resp.No.4;
Mr.ST Shelke, Advocate for Resp.No.5.

CORAM : **R.M.BORDE &**
P.R.BORA,JJ.

DATE : **10th February,2015.**

ORAL JUDGMENT (PER:-R.M.BORDE,J.)

1) Heard. Rule. With the consent of parties, the petition is taken up for final disposal at admission stage.

2) The petitioners are praying for issuance of directions to the respondents to pay amount of compensation determined on the basis of compromise arrived at between the parties before Lok Adalat on 7th March, 2012, expeditiously and preferably within a period of three months.

3) The agricultural land belonging to the petitioners came to be acquired in the year 1998 for the purpose of water supply scheme at village Babhleshwar. Possession of the land was taken on 2.4.1998. The acquisition proceedings were initiated for determining the compensation and the Award came to be passed on 14.2.2000.

4) The petitioners being aggrieved by the determination of compensation under the Award passed by Special Land Acquisition Officer, approached the Civil Court by presenting separate land acquisition references in the year 2006. During pendency of the reference applications, an application came to be presented on behalf of opponent No.2, i.e. Maharashtra Jeevan Pradhikaran under Order I Rule 10(2) of Code of Civil Procedure, 1908 (for short, C.P.C.) for deleting name of the concerned Respondent. The application tendered by Respondent No.2 was considered favourably by the Reference Court. The contention of the concerned respondent, that it is not an acquiring body, has been accepted by the civil court. The concerned respondent, i.e. Maharashtra Jeevan Pradhikaran, placed reliance on the Government Resolution dated 10.09.2003 to contend that the State of Maharashtra has directed that Maharashtra Jeevan Pradhikaran is mere an agency functioning on behalf of the State and is not an acquiring body. The submission of concerned respondent, based on the aforesaid Government Resolution, was accepted by the trial court.

5) On perusal of the order passed by the trial court, permitting deletion of name of Respondent no.2, it transpires that the State of

Maharashtra did not oppose the said application. Thereafter, respective reference applications were placed before Lok Adalat for consideration and compromise has been arrived at between the respective claimants and the State of Maharashtra. As per the compromise, the State of Maharashtra agreed to pay market value which has been recorded in terms of settlement. There is no reference to the time frame in respect of payment of amount, nor there is a reference in respect of payment of interest or other benefits accruable under the provisions of Land Acquisition Act, i.e. component @ 12%; solatium @ 30% and interest in accordance with Section 28 of the Land Acquisition Act. It does appear that the petitioners have voluntarily surrendered or given up the statutory monetary benefits since the State has agreed to pay enhanced market value of the land. However, in spite of entering into the settlement and in spite of passing of an Award in terms of settlement arrived at between the parties on 7th March, 2012, even after lapse of almost three years, the amount of compensation has not been paid to the petitioners.

6) It is tried to be contended on behalf of the State that, in fact, Maharashtra Jeevan Pradhikaran is an acquiring body, and as such, responsibility lies on the said acquiring body to

pay the amount of compensation. This contention raised by the respondent is not acceptable for several reasons, and raising of such contention in on behalf of the State Government, adds insult to the injury sustained by the petitioners/claimants. The stand taken by the State Government is not at all acceptable and this itself demonstrates callous attitude and approach of the State Government towards poor farmers, whose lands have been taken away and their monetary benefits have been withheld for years together and for unsustainable reasons.

7) As has been recorded above, an application came to be tendered on behalf of the acquiring body before the Reference Court for deletion of its name. The State of Maharashtra was represented in the matter and as such it shall be presumed that after considering the contentions of the State Government, the application came to be allowed, permitting deletion of name of Maharashtra Jeevan Pradhikaran. It is to be noted that said body is not an acquiring body and it is the State of Maharashtra, which is responsible for has acquisition of the lands belonging to the petitioners/claimants. Apart from this, the State Government, with open eyes, entered into settlement/compromise with the claimants and made

a solemn declaration for payment of market value in the year 2012. In such circumstances, it is not permissible for the State Government now to turn volte-face and shift its responsibility on Maharashtra Jeevan Pradhikaran. We do not approve such stand taken by the State Government.

8) Noticing similar attitude on the part of State Government in various matters, one of which is Writ Petition No.4399/2014, this court was constrained to direct payment of costs, ranging from Rs.25,000/- to Rs.1,00,000/- against the State Government for its failure to pay amount of compensation to the agriculturists in spite of arriving at settlement and passing of Awards in pursuance of such settlement by the Reference Court.

9) In a group of petitions, again similar grievances were raised and taking note of the inaction on the part of the State Government in making payment of compensation to the claimants, even after determination of amount, on the basis of agreement/settlement before Lok Adalat, The Chief Secretary of the State was called upon to submit his response. In this context, reference can also be made to the Government Resolution dated 13.2.2011, wherein time frame is prescribed for disbursement of amount of compensation in

respect of the matters which are settled before the Lok Adalat. The state was persuaded to take such decision in pursuance of the directions issued by Division bench of this Court. The policy decision of the State Government recorded in Government Resolution dated 13.2.2011 is always observed in breach. Noticing these aspects, by an order dated 2nd September, 2014 passed in Writ Petition No.4399/2014, the Chief Secretary was called upon to provide for a time frame for disbursement of the amount of compensation to the claimants in such of those matters, where the reference applications are disposed of on the basis of settlement arrived at before Lok Adalat. The Chief Secretary has presented an affidavit in reply in the said matter and placed on record information before this Court, disclosing that in all total 2,037 matters, an amount to the extent of Rs.60,72,4698/-, is required to be disbursed. The Chief Secretary has also given time frame for disbursement of the amount.

10) In the instant matter, the acquisition is not for Water Resources Department, and as such, it was incumbent upon the State Government to adhere to the time frame set out in the affidavit in reply, presented by the Chief Secretary. However, it is noticed that under one

pretext or the other, there is sheer avoidance of the responsibility by the State. It is to be noticed that the acquisition of the lands of the petitioners is at the instance of the State Government, and as such, a primary responsibility to pay the amount of compensation rests with the State Government and under any pretext, the State Government cannot be permitted to avoid or shifts its responsibility. In the instant matter, it is noticed that, not only the Government directives, in respect of adherence to time frame for payment of compensation, recorded in Government Resolution, have been flouted, but the solemn undertaking given by the State Government, through affidavit in reply of the Chief Secretary of the State, is also not adhered to.

11) Learned Additional Govt. Pleader, on instructions, from Government makes a statement that amount receivable by the petitioners would be disbursed within a period of two months. The statement is accepted. Hence we pass following order, -

- (1) Respondent Nos.1 and 2 are directed to pay amount of compensation, as agreed under the terms of settlement, arrived at before the Lok Adalat and consequent Award passed by the Reference Court in pursuance of the settlement before the Lok Adalat, within a

period of two months from today;

(2) Respondents Nos.1 and 2 shall pay interest, quantified at 15% p.a. from the date of settlement i.e. 7th March, 2012 till the date of actual payment, and shall pay the same within the time frame, stipulated as above;

(3) It would be open for the State Government to recover the amount of interest, which is required to be paid to the claimants, as a result of inaction and negligence on the part of erring officials, after observing appropriate procedure.

12) Rule is accordingly made absolute.
There shall be no order as to costs.

sd/-
(P.R.BORA)
JUDGE

sd/-
(R.M.BORDE)
JUDGE

bdv/