

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.3291 OF 2007

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.B.R.Survase, advocate for the Petitioner.
 Mrs.M.S.Patni, Asstt. Govt. Pleader for the State.
 Mr.A.B.Kale, advocate for Respondent Nos.4 to 12.

**CORAM : S.V.GANGAPURWALA &
 A.I.S.CHEEMA, JJ.**
Date : 24.03.2015.

PER COURT :

1. Heard.
2. Mr.Survase, learned counsel for the petitioner submits that the Respondents can not prove the date of acquisition of possession. There was no material before the Collector to conclude that the Respondents are entitled for rental compensation from the year 1995. The Respondents had filed Writ Petition before this Court, wherein specific averment was made that the petitioner has taken possession from the present Respondents on 1.10.1999. In absence of any other evidence, the case of the present Respondents and the date given by it of losing possession i.e. 1.10.1999 ought to have been considered. The order of the Collector giving rental

compensation from 1995 is illegal.

3. Mr.Kale, learned counsel for the Respondents submits that though there was no document showing delivery of possession in 1995 but it was on the basis of the scrutiny of the record the Collector came to the conclusion that the possession is lost by the present Respondents in the year 1995. Learned counsel submits that the Apex Court had directed award of interest on payment of rental compensation at 9% p.a. The learned counsel submits that in the Reference filed by the present Respondents, the interest is awarded from the date of award and not prior to it.

4. We have considered the submissions. We could not find any record showing that the possession has been delivered by the Respondents to the petitioner in 1995. In earlier Writ Petition, there was unequivocal statement on the part of the Respondents that the possession is lost on 1.10.1999.

5. In light of the above, the order of the Collector granting rental compensation from the year 1995 is not sustainable. The said order is quashed and set aside. The Collector after considering the statement made by the petitioner in the earlier Writ Petition about the date of delivery of possession shall determine the aspect of payment of rental compensation afresh expeditiously.

6. All points of respective parties kept open.

7. The parties may appear before the authority on 8.4.2015.

Rule accordingly made absolute. No costs.

(A . I . S . CHEEMA , J .)

(S . V . GANGAPURWALA , J .)

Dt..24.03.2015.
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