

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 252 OF 2015

WITH

WP/253/2015 WITH WP/254/2015 WITH WP/255/2015
WITH WP/256/2015 WITH WP/257/2015 WITH WP/258/2015
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WITH WP/292/2015 WITH WP/293/2015 WITH WP/294/2015
WITH WP/295/2015 WITH WP/296/2015 WITH WP/297/2015
WITH WP/1139/2015.

SUDHIR NARAYAN CHOUDHARI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Shri Ajeet B.Kale

AGP for Respondents 1 & 2 : Shri Bhogle U.H.

Advocate for Respondent 3 : Smt. Chaitrali Chaudhari - Kutti

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CORAM : RAVINDRA V. GHUGE, J.

Dated: February 02, 2015

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PER COURT :-

1. Heard the learned Advocates for the respective parties.
2. A common question is involved in all these petitions.
3. The entire controversy revolves around the settlement memo, dated 16.9.2012, signed in the Maha Lok-Adalat under Chapter VI of the Legal

Services Authorities Act, 1987.

4. The issue precisely pertains to the first paragraph of the settlement memo placed on record. The respondents / State agreed to calculate the compensation of the acquired land whose Gut Numbers are mentioned, along with specifications as regards the measurements and the area of the land. The amount to be paid by way of compensation, through the settlement, is also mentioned in the said paragraph.

5. The settlement memo is in a proforma and has left a blank space beginning from the words, "*And/or for Pot Kharab land at the rate of Rs. _____/- with statutory benefits after deducting the amount paid earlier and the statutory benefits.*" Grievance of the petitioners was that there was no issue as regards any deductions to be made from the amounts agreed to be paid to them.

6. The petitioners contend that the settlement memo signed by them and the respondents, was only as regards the payment of the entire amount mentioned in the said memo. Since the settlement memo was in a proforma, the words ".....after deducting the amount paid earlier and the statutory benefits" as set out in paragraph No.5 above, were wrongly left in the settlement memo. The respondent / acquiring body had never sought such deductions to be made and it was never at their request that the said sentence was left in the settlement memo.

7. Therefore applications were moved by the petitioners, all on 20.11.2013, praying for a rectification in the text of the settlement memo dated 16.9.2012. The reasons for moving the said applications was that the litigating parties had not taken up the issue of deductions of amounts paid earlier and the statutory benefits, therefore, the necessary correction be made in the settlement memo.

8. The acquiring body filed its say dated 20.1.2014, admitting that they had not insisted on deducting the amounts paid earlier and statutory benefits from the figure agreed to be paid, as mentioned in line No.3 of clause No.(1) of the settlement memo. It was admitted that there is a typographical mistake in the said paragraph and the clause as regards deduction of the amounts paid earlier and statutory benefits, ought not to find place in the said memo. In short, the acquiring authority agreed that the amount mentioned as being payable was to be paid in its totality and not by carrying out any deductions.

9. The said applications filed by the petitioners were registered as MRJE Applications, and were treated as the Day Applications. By order dated 19.3.2014, the said applications were rejected.

10. The petitioners submit that since the applications have been rejected and having been merely filed as the Day Applications, they preferred a specific application, under under Section 152 of the Code of Civil Procedure ("CPC"), dated 5.4.2014. The acquiring body did not oppose

the said applications, in the light of the consent already placed on record.

11. By the impugned order dated 11.6.2014, the said applications have been rejected on the ground that despite the consent, such a review is not permissible.

12. The learned Advocate for the acquiring body / respondent No.3, who had sought time to take instructions as regards the say filed before the concerned Court, dated 20.1.2014, submits that the third respondent is not altering its stand. It was mentioned in its say, placed on record, that there was no such agreement for withdrawing the amount paid earlier and the statutory benefits and that the amount mentioned in clause (1) of the settlement memo was to be paid in its entirety.

13. The learned AGP points out that the concerned AGP at Jalgaon, in the said proceedings dealt with by the trial Court, had specifically mentioned that an appropriate order may be passed in the light of the say filed by the acquiring body. Copy of the said reply / say is on record in these petitions.

14. Section 152 of the CPC reads as under:-

" Amendment of judgments, decrees or orders. - Clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the

application of any of the parties."

15. What was sought before the concerned authority below was not a review on the order passed based on the settlement memo. The petitioners, in order to have the records corrected, had requested for a correction in the settlement memo only to indicate that the acquiring body had neither demanded deductions of amounts paid earlier and statutory benefits, inasmuch as it was never agreed between the parties for carrying out such deductions when the settlement memo was signed. The acquiring body confirmed the statement made by the petitioners in their respective application.

16. In my view, when the parties to the proceedings had consciously made a request under Section 152 of the CPC and which request was accepted by the acquiring body and which is even not disputed today, the Court below should have exercised its jurisdiction to correct the mistake in the said decree and should have put the matter to rest. None of the respondents have indicated before this Court that there was any legal impediment, which precluded or prevented the concerned Court from exercising its jurisdiction under Section 152 of the CPC.

17. In the light of the above, I am exercising my writ jurisdiction in these matters. The impugned orders dated 19.3.2014 and 11.6.2014 are quashed and set aside. The applications filed by the petitioners under Section 152 of the CPC, seeking correction to the extent that the amount mentioned in

clause (1) of the memo of settlement is to be paid in its entirety without carrying out deductions as regards the amounts paid earlier and the statutory benefits, are allowed.

18. In the result, all these petitions are, therefore, partly allowed. The Special Land Acquisition Officer shall calculate the amounts strictly in accordance with law and the scheme applicable and make the payments to the concerned petitioners as expeditiously as possible.

19. No order as to costs.

(RAVINDRA V. GHUGE, J.)

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