

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

WRIT PETITION NO. 950 OF 2015

Bapu Dhondi Nejkar and ors. .. Petitioners.

V/s

State of Maharashtra and ors. .. Respondents.

WITH

WRIT PETITION NO. 998 OF 2015

Ananda Nejkar .. Petitioner.

V/s

State of Maharashtra and ors. .. Respondents.

WITH

WRIT PETITION NO. 999 OF 2015

Pandurang Patil and ors. .. Petitioners.

V/s

State of Maharashtra and ors. .. Respondents.

WITH

WRIT PETITION NO. 1000 OF 2015

Raghunath Dattu Patil and ors. .. Petitioners.

V/s

State of Maharashtra and ors. .. Respondents.

WITH

WRIT PETITION NO. 1001 OF 2015

Mansing Bhau Patil and ors. .. Petitioners.

V/s

State of Maharashtra and ors. .. Respondents.

WITH

WRIT PETITION NO. 1002 OF 2015

Vasant Dattu Magar and ors. .. Petitioners.

V/s

State of Maharashtra and ors. .. Respondents.

WITH
WRIT PETITION NO. 1003 OF 2015

Annaso Appaso Patil and ors. .. Petitioners.
V/s
State of Maharashtra and ors. .. Respondents.

WITH
WRIT PETITION NO. 1004 OF 2015

Sunil Patil and ors. .. Petitioners.
V/s
State of Maharashtra and ors. .. Respondents.

WITH
WRIT PETITION NO. 1005 OF 2015

Balaso Bapuso Patil and ors. .. Petitioners.
V/s
State of Maharashtra and ors. .. Respondents.

WITH
WRIT PETITION NO. 1006 OF 2015

Ravindrakumar Patil and ors. .. Petitioners.
V/s
State of Maharashtra and ors. .. Respondents.

WITH
WRIT PETITION NO. 1008 OF 2015

Dattatraya Thorat and ors. .. Petitioners.
V/s
State of Maharashtra and ors. .. Respondents.

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Mr. Bhushan Walimbe, for petitioners.
Mr. Vikas Mali, AGP, for State.
Mr. Pravin Salunkhe, Dy. Collector & District Rehabilitation Officer,
Sangli.

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CORAM : SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG
DATE : FEBRUARY 05, 2015

By these petitions, the petitioners have challenged the land acquisition proceedings initiated by the respondents on various grounds.

The State Government issued the Notification under Section 4(1) of the Land Acquisition Act, 1894 on 14th January, 2011. The petitioners filed their objections and requested that their land be deleted from the proposed acquisition. According to the petitioners, without deciding their objections, the State Government proceeded to take further steps in the acquisition proceedings and the award was passed on 19th September, 2013. It is case of the petitioners that the petitioners had no knowledge of the award till they received the notice under Section 12(2) of the Land Acquisition Act, 1894, sometime in the month of January, 2015.

It is submitted on behalf of the petitioners that the Special Land Acquisition Officer did not decide the objections of the petitioners under Section 5A of the Land Acquisition Act, 1894. It is stated that the petitioners were not heard by the Special Land Acquisition Officer. According to the petitioners, the respondents did not conduct the enquiry as required by the provisions of the Act and

the enquiry under Section 5A was hollow. It is stated that the reasons recorded by the Authorities for overruling the objections of the petitioners are not adequate. It is submitted that some of the objections raised by the petitioners are not considered. It is stated that in some of the cases, the land of other parties was considered, while determining the holding of the petitioners and the extent of the land on which the well existed was also considered.

It is stated that though the petitioners had raised the objection that the land did not fall within the benefited zone, the said objection was not taken into consideration. It is submitted that the petitioners would be deprived of filing the reference under Section 18 of the Land Acquisition Act, 1894, as under Section 18(2) of the Act, the award can be challenged within a period of six weeks from the receipt of the Section 12(2) notice or within six months from the date of award, which is earlier. It is stated that the since the award has been passed by the Land Acquisition Officer on 19th September, 2013, and the period of six months has expired, the petitioners would not be entitled to file the reference application under Section 18 of the Act. It is submitted that the objections raised by the petitioners under Section 9 of the Act were also not considered

by the Authorities and the award under Section 11 of the said Act, was passed.

In view of the submissions made on behalf of the petitioners on the first date of hearing, we had asked the learned AGP to produce the original records and proceedings in the land acquisition proceedings in question. The original record is produced. We find on the perusal of record that petitioners were granted an opportunity of hearing by the Special Land Acquisition Officer and the objections raised by the petitioners were also decided.

We had also asked the learned AGP to seek the instructions whether the lands fall within the benefited zone. The learned AGP on instructions from the District Resettlement Officer, who is also present in the Court today has produced the Government Notification dated 13th May, 1977. On a perusal of the Notification, we find that the entire Nagav Village is included in the benefited zone. We have also inspected the map tendered by the petitioners on record to show that the length of Warna Left Canel of the Warna dam was reduced from 130 sq. k.m. to 73 sq. k.m. We further find on hearing the learned counsel for the parties that the Notification dated 13th May, 1977 has not been modified or cancelled. It appears

that though the length of the Warna dam was reduced, Nagav Village and the petitioners were taking the water from Warna Irrigation Project. We, therefore, do not find any merit in the submission made on behalf of the petitioners that the land in question does not fall within the benefited zone.

We also do not find any force in the submission made on behalf of the petitioners that the enquiry was not conducted under Section 5A of the Land Acquisition Act, 1894 and also the submission that the petitioners would be deprived of filing the reference under Section 18 of the Land Acquisition Act, 1894 for seeking enhancement of the compensation. It is held by the Supreme Court in various decisions that the words 'within a period of six months from the award of the collector', would mean within a period of six months from the knowledge of the award of the collector. It would be worthwhile to refer to the decisions reported in ***AIR 1961 SC 1500 and AIR 1963 SC 1604***, in this regard. The right of the petitioners, therefore, to seek the enhancement of compensation under Section 18 of the Land Acquisition Act, 1894 is not lost, because of the delayed issuance of notice by the State Government under Section 12(2) of the Land Acquisition Act, 1894. The petitioners can as well

file the reference application within a period of six weeks from the date of receipt of the Section 12(2) notice.

We do not find any reason to set aside the acquisition proceedings. Though it is stated on behalf of the petitioners that they had raised an objection in respect of the measurements under Section 9 of the Act, we find from the record that the petitioners had specifically stated that they had no objection in respect of the measurements. Since the petitioners were heard and their objections under Section 5A were decided, the acquisition proceedings cannot be set aside. It would be necessary to refer to the judgments of the Hon'ble Supreme Court, reported in *(1997) 2 SCC 627 and (2000) 2 SCC 48* in this regard.

For the reasons stated hereinabove, we dismiss the writ petitions with no order as to costs.

[C.V. BHADANG, J.]

[VASANTI A. NAIK, J.]