

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

WRIT PETITION NO. 9300 OF 2012

Shri Moreshwar Vinayak Karve & ors.	...	Petitioners
V/s.		
The State of Maharashtra & ors.	...	Respondents

Mrs. S.S. Gokhale i/b. Leena Patil for the petitioners.
Mr. P.P. Kakade, AGP for respondents 1, 3 to 6.
Mr. G.S. Hegde for respondent no.7.

**CORAM : NARESH H. PATIL AND
S.B. SHUKRE, JJ.**

10th August, 2015.

P.C.

The petitioner submits that the subject lands were compulsorily taken in possession by the respondent no.2 for construction of dam under notification issued on 18th January, 2010 under Section 4 read with Section 17(4) of the Land Acquisition Act and possession of the land was taken on 21st January, 2010. The petitioner had approached this Court by filing batch of Writ Petitions bearing Nos.4013/2010, 3879/2010, 2264/2010, 859/2011 vide order dated 20th December, 2011. The Division Bench observed that as no notification under Section 6 of the Act could be issued pursuant to Section 4 notification, no useful purpose would be served by considering the availability or otherwise of Section 4 notification. The respondent would grant benefit to the petitioner in accordance with the directions issued in the case of ***Uttam Ganpat Ubale & ors. v/s. State of Maharashtra & others {2012(4) AIR***

Bom R 402}.

2. During hearing of the said petition, by an interim order passed on 29th March, 2010 parties were directed to maintain status-quo.

3. The fall out of the order passed by the Division Bench was that the acquisition proceedings had to be initiated again by the acquiring body. A fresh notification under Section 4 of the Land Acquisition Act was issued on 31st December, 2011.

4. The learned Counsel appearing for the petitioner submits that in accordance with the Government Resolution dated 1st December, 1972 and Government Resolution dated 2nd April, 1979 and in view of the receipt of possession executed between the petitioners and the acquiring body, 8% interest is required to be paid till the payment of amount as determined in the award. Learned Counsel submits that in view of the facts and in the light of the judgment delivered by the Apex Court **2003 AIR SCW 4202 {State of Maharashtra v/s. Manimuma Banu}**, 6% interest on the rental compensation is required to be paid. Learned Counsel submits that in the peculiar facts and circumstances of the case, the petitioners are pressing for 12% interest.

5. Respondents 4 and 6 filed affidavit-in-reply today. It is submitted that awards concerning the subject lands of the petitioners are declared in the month of March, April, 2015. Notice was issued to the petitioner under Section 12(2) of the Land Acquisition Act 1984 by Talathi of the concerned villages. The respondents have placed on record copies of

relevant Government Resolution. Learned AGP submits that in view of the order of status-quo, the petitioner is not entitled to claim any compensation and interest prior to the issuance of notification under Section 4 on 31st December, 2011.

6. Learned Counsel appearing for CIDCO submits that for the purposes of construction of dams, the lands were taken into possession and the proceedings were initiated. The awards are passed. 80% of dam work is already complete. In view of need, exigency and public interest involved, the petitioner is not entitled to claim 8% interest on the compensation determined under the Award. The petitioner is not at all entitled to claim further interest on the unpaid amount.

7. Perused the record placed before us and the judgment cited. During the proceedings of the hearing of writ petition filed by some persons the Division Bench had directed the parties to maintain status-quo. Respondents, therefore, did not take further steps to proceed for acquisition of the land or for determination of the compensation. After the disposal of the petition, a fresh notification was issued by the respondents under Section 4 of the Land Acquisition Act. The petitioners claim benefit under the receipt executed between the parties and the Government Resolution dated 1st December, 1972.

8. In the facts, if the petitioners are not paid 8% amount as mentioned in the Government Resolution dated 2nd April, 1979 and the receipt executed between the parties, then the petitioners would be entitled for the said amount. In view of the record placed before us, we observe that

petitioners are entitled for payment of 8% amount as rental compensation in accordance with State policy reflected in the Government Resolutions as above. The petitioners shall be paid an amount of 6% interest on the unpaid amount of rental compensation. While determining the petitioner's claim for rental compensation, the concerned authorities shall examine the appropriate application and cases in accordance with the directions issued by this Court in the case of ***Uttam Ganpat Ubale & ors. v/s. State of Maharashtra & others {2012(4) AIR Bom R 402}***. The said directions (clauses A, B, C, D & F) read as under:

“(A) The Special Land Acquisition Officer, while dealing with issue of payment of rental compensation shall first ascertain date of possession of the subject land from the Award or in absence of date mentioned in the Award, from the official record maintained by the Special Land Acquisition Officer.

(B) The rental compensation is to be paid in case possession of the subject land is taken over by the State authorities under the Government Resolutions by private negotiation calculated at the prescribed rate on the amount awarded by the Special Land Acquisition Officer till the payment of the said amount.

(C) The interest awarded under Section 34 of the Land Acquisition Act, 1894 cannot be awarded to claimant whose land is taken over in possession by the State authorities by private negotiations prior to issuance of Section 4(1) Notification under the Land Acquisition Act. The provisions of Section 34 of the Land Acquisition Act, 1894 shall be made applicable to the subject acquisition from the date of issuance of Section 4(1) notification under the Land Acquisition Act, 1894 onwards.

(D) The claimants are entitled for rental compensation under the afore-mentioned Government Resolutions for agricultural as well as Non-agricultural lands.

(E)

(F) The rental compensation could be re-determined in case

awarded amount by the Special Land Acquisition Officer is settled under the award passed by the Reference Court or the higher courts.”

9. Respondents shall pay the amount of compensation calculated as above within three months, to the petitioners.

10. With these observations and directions, writ petition is disposed of.

(S.B. SHUKRE, J.)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.S.