

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

WRIT PETITION NO. 2154 OF 2013

Bhila Govinda Hatkar and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondent

Shri Ajit B. Kale, Advocate for Petitioners.

Shri V. H. Dighe, A.G.P. for Respondent Nos. 1 and 2.

Ms Chaitali Kutti-Chaodhari, Advocate for the Respondent No. 4.

**WITH
WRIT PETITION NO. 3063 OF 2013**

The Executive Engineer, Minor
Irrigation Division, Jalgaon .. Petitioner

Versus

The State of Maharashtra and others .. Respondent

Ms. Chaitali Kutti-Chaodhari, Advocate for the Petitioner.

Shri V. H. Dighe, A.G.P. for Respondent Nos. 1 to 3.

Shri Ajit B. Kale, Advocate for Respondent Nos. 4 to 14.

**CORAM : S. V. GANGAPURWALA
A. M. BADAR, JJ.**

DATE : 14TH JANUARY, 2016.

PER COURT :

. The Writ Petition No. 2154 of 2013 is filed by claimants seeking directions against the respondents to pay the amount

under the award passed U/Sec. 28-A of the Land Acquisition Act (for the sake of brevity hereinafter called as "L. A. Act"). Whereas the Writ Petition No. 3063 of 2013 is filed by the acquiring body challenging the said award passed U/Sec. 28-A of the L. A. Act.

2. Mrs. Kutti, the learned counsel for the petitioner/acquiring body submits that, the award U/Sec. 28-A of the L. A. Act is passed without hearing the present petitioner and behind the back of the acquiring body. The judgment and award under reference which was made the basis for application U/Sec. 28-A itself is challenged before this Court by filing first appeal. The said first appeal is filed in the year 2012. As the judgment and award of the Reference Court U/Sec. 18 of the L. A. Act itself is under challenge, the proceedings U/Sec. 28-A of the L. A. Act could not have been proceeded further. The learned counsel submits that, as the said judgment and award is passed behind the back of the petitioner/acquiring body and during the pendency of appeal before this Court the said award deserves to be set aside.

3. Mr. Kale, the learned counsel for claimants submits that, the objection of the acquiring body is only that the appeal is pending. The judgment and award passed in reference U/Sec. 18 of the L. A. Act is dated 28.04.2010. The appeal by the acquiring body is said to have been filed in the year 2012. This Court has

not stayed the judgment and award of the Reference Court U/Sec. 18 of the L. A. Act and nor the said matter is at any point of time circulated by the acquiring body seeking any orders thereon. The judgment and award U/Sec. 28-A is not assailed on merits.

4. It does not appear that any error has been committed by the Special Land Acquisition Officer in awarding the rate and interest while passing award U/Sec. 28-A of the L. A. Act. Again remitting matter would not serve any purpose. On the contrary interest would go on mounting. It is also submitted by Mrs. Kutti, the learned counsel for acquiring body that the Corporation at present is not in a position to deposit the amount.

5. When award is already passed and even there is no stay granted by this Court to the judgment and award passed in Reference U/Sec. 18 of the L. A. Act in L. A. R. No. 04 of 2007, it will be obligatory on the part of the respondents to deposit the amount.

6. Considering the difficulty expressed by the learned counsel for the acquiring body, we would grant six (06) months time to the acquiring body to pay the amount to the claimants. Of course, the claimants shall file an undertaking in this Court that, in case the appeal filed by the acquiring body against the judgment and award in reference filed U/Sec. 18 of the L. A. Act in L. A. R. No. 04 of 2007 is allowed and they are directed to

deposit the amount, they would return back the amount to the acquiring body. The writ petitions as such are accordingly disposed of. No costs.

7. Needless to state, the said payment shall be with the statutory interest as applicable.

[A. M. BADAR, J.]

[S. V. GANGAPURWALA, J.]

bsb/Jan. 16