

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

**CONTEMPT PETITION NO. 364 OF 2014
IN
WRIT PETITION NO. 1667 OF 2012**

Nemulal S/o Maroti Bhandwale and ors. ...PETITIONERS

versus

The State of Maharashtra and others ...RESPONDENTS

**WITH
CONTEMPT PETITION NO. 363 OF 2014
IN
WRIT PETITION NO. 8988 OF 2012**

Narayan S/o Vishwanath Waybhat
and others ...PETITIONERS

versus

Shri Navalkishor Ram
District collector and others ...RESPONDENTS

.....

Mr. Sachin S. Deshmukh, Advocate holding for
Mr. M.U. Shelke, Advocate for petitioners
Mr. S.S. Dande, AGP for respondents

.....
**CORAM : S. V. GANGAPURWALA AND
K.K. SONAWANE, JJ.**

DATED : 25th APRIL, 2016.

Order :-

1. This court under order dated 24-07-2012 in writ petition no. 1667 of 2012 had passed following order-

- 1) *Heard.*
- 2) *Rule, made returnable forthwith. By consent, heard finally.*
- 3) *The petitioners have prayed for following reliefs.*

“[A] By issuance of writ of mandamus or writ or order or direction in like nature, direct respondents i.e. respondent No.2 to initiate the proceeding under Land Acquisition Act, 1894 in respect of the land of the petitioners of which possession was taken for construction of Beed-Imampur Road.

[B] By issuance of writ of mandamus or writ or order or direction in like nature, direct the respondents to determine and to pay compensation of land as per market price and pay rental compensation of land and confer all other benefits for which petitioners would have entitle if land would have been taken in possession by following procedure prescribed under the Land Acquisition Act, 1894.

[C] By issuance of writ of mandamus or writ or order or direction in like nature, direct the respondents to pay interest at the rate of 14 percent per annum an amount of value of land from the date of taking over possession of land till the date of realisation of whole amount.

[D] Pass such order and further order(s) as this Hon’ble court may deem fit and proper in the peculiar facts and circumstances of the case.”

4) *The petitioners' land admeasuring 11846 square meters from Survey Nos.37 & 39 and land admeasuring 4497 square meters from Survey No.29AA was utilized by the respondents in the year 1989 for construction of Beed – Imampur Road. The petitioners' contention is*

that the said land was acquired without taking recourse to the provisions of the Land Acquisition Act. The petitioners demanded compensation for the same but the respondents and their authorities have failed to initiate proceedings and pay compensation to the petitioners.

5) *Consequent to the order passed by this Court, separate affidavits-in-reply have been filed on behalf of respondent Nos.2 and 3. In the reply filed by respondent No.2 through Arvind Lahu Latkar, Deputy Collector, Land Acquisition, the deponent contends in para 4 thus :*

“4. However, it is submitted that the proposal of the land of Petitioners for acquisition of the land which are used for Beed-Imampur road is received in the office of Collector on 11.7.2012 vide letter dated 6.7.2012. It is submitted that, prompt action has been taken and permission as required is granted by Collector, Beed. Hence, it is submitted that, now by following due procedure of law i.e. by issuing section 4 notification and then by following stages under Land Acquisition Act award will be published.”

6) *In the affidavit-in-reply filed by respondent No. 3 – Executive Engineer, PWD, Beed, it is contended in para 3:-*

“3. It is most humbly brought to the notice of the Hon'ble High Court that the proposal pertaining to the Petitioner's land is sent to the office of Collector, Beed. It is humbly brought to the notice of the Hon'ble High Court that the proposal pertaining to the lands of the Petitioners was also sent earlier but as there were some lacunas it was sent back to the office of the Collector, Beed and for completing lacunas some time was required. There was no intention to delay the proposal and there was even no intention to disobey any order passed by the Hon'ble High Court. Hence as on date the proposal for land acquisition of the Petitioners

has been sent and now further proceedings will be done by the Competent Authority i.e. Collector, Beed."

7) The learned Assistant Government Pleader submits that the respondents are now taking effective steps to issue notification under section 4 of the Land Acquisition Act. An order dated 21-7-2012 passed by the Collector, Beed was relied upon.

8) In spite of utilizing the petitioners' land for public purpose the respondents have failed to initiate action under the appropriate provisions of the Land Acquisition Act thereby depriving the petitioners of right to claim compensation. The land was utilized in the year 1989. The petitioners had made representation to the Collector in the year 2008 but it was not favourably considered. The learned counsel for the petitioners submits that several times the petitioners approached the authorities but they had orally informed that the land acquisition proceedings will be initiated. Therefore, the petitioners did not approach this Court earlier neither filed representation to the authorities prior to 2008 in writing.

9) We are not convinced regarding explanation given on abnormal delay which has taken place in initiating the land acquisition proceedings.

10) The learned Assistant Government Pleader states that, a departmental inquiry is initiated against the Executive Engineer who had failed to take diligent steps in respect of initiation of acquisition proceedings.

(A) We direct the Collector, Beed and the respondents to take effective steps to issue Notification under section 4 of the Land Acquisition Act within four weeks from today.

(B) We direct the Collector / Special Land Acquisition Officer to complete the land acquisition proceedings within one year from the date of issuance of Section 4 notification on its own merits.

(C) The petitioners' claim for rental compensation shall also be considered as per the State policy and the amount towards rental compensation shall be paid to the petitioners after determining the same at the earliest.

(D) We direct the Collector to call for explanation from the concerned officers in respect of delay in initiating land acquisition proceedings. The Collector to initiate the inquiry against the responsible officers in this regard.

(E) The Collector, Beed, shall call for reports in respect of such identical proposals pending in Beed District and issue appropriate instructions / directions to the subordinate officers.

12) Rule is made absolute in the above terms.

13) Authenticated copy of the order be given to the counsel for the parties. The parties to act on the authenticated copy."

2. Perusal of order it is manifest that respondents - therein were directed to commence acquisition proceeding within one year from the date of order. Almost four years have lapsed as yet no steps are taken. Even affidavit in-reply filed by respondents does not show that any positive steps are being taken for publication of final award though notification under section 4 and declaration under section 6 of the Land Acquisition Act, 1894 (for short "Act of 1894") were issued, however, award was not passed on the ground that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "Act of 2013") came into force.

3. Be that as it may, respondents will have to initiate acquisition proceeding as per Act of 2013, no award has been passed and it is submitted in the affidavit that provisions of Act of 2013 would be applicable.

4. Considering the above, respondents - authorities may finalize the acquisition proceeding, however, compute compensation payable to the petitioners as per the Act of 2013. After finalization of award payment shall be made to the petitioners accordingly. This exercise shall be done as expeditiously as possible, preferably within a period of six months from the date of order.

5. With aforesaid directions, contempt petitions stand disposed of.
No cost.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]