

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.12254 OF 2016

Tanhaji s/o Rambhau Pawar

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.D.R.Jayabhar, advocate for the petitioner
Mr.S.P.Tiwari, A.G.P. for Respondents.

**CORAM : R.M.BORDE &
SANGITRAO S. PATIL, JJ.
DATE : 14th December, 2016**

PER COURT:

The award in respect of acquired property has been declared on 20.02.2004 and petitioner is in receipt of amount of compensation determined by the Special Land Acquisition Officer. The petitioner also presented Reference Application bearing No.22 of 2007 under Section 18 of the Land Acquisition Act claiming enhancement in the amount of compensation, which came to be allowed by the Reference Court. The petitioner also approached this Court by presenting Writ Petition No.7017 of 2015 seeking release of property from acquisition. The petitioner was granted liberty to approach the State Government/Commissioner under Section 48 of the Land Acquisition Act, 1894 or under Section 101 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, since the petitioner claimed that he has not handed over actual possession to the State Government.

2 The petitioner did approach the Divisional

Commissioner, Nashik Division, Nashik, in pursuance to the liberty granted in aforesaid writ petition and the Commissioner has decided the application tendered by the petitioner on 30.06.2016. It is evident on perusal of the order passed by the Commissioner that the petitioner has received the amount of compensation and the Reference Court has also directed enhancement in the amount of compensation. It would be open for the petitioner to present Execution Application for executing the award passed by the Reference Court. It is observed by the Commissioner, in the order, that possession of the property has been taken over by the State Government and as such, provisions of Section 48 of the Land Acquisition Act are inapplicable. The reasons recorded by the Commissioner, while dealing with the application tendered by the petitioner, are reasonable and proper.

3 In exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, no interference is called for. Petition is devoid of substance.

4 Writ Petition stands dismissed.

(SANGITRAO S. PATIL)
JUDGE

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(R.M.BORDE)
JUDGE