

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11137 OF 2015

SITARM NAMDEV PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. A.B. Kale
AGP for Respondent Nos. 1 to 3:Mr. S.M. Ganachari.
Advocate for respondent No.4 : Mrs. Chaitali Kutti (Chaudhari)

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 13TH JUNE , 2016.

PER COURT:

1] Rule. Rule made returnable forthwith. Heard finally by consent of parties. Mr. Kale, learned counsel for the petitioner submits that notification under Section 4 of the Land Acquisition Act is passed on 25.4.2013. The award is passed on 14.2.2015. While passing the award on 14.2.2015, though the compensation is said to have been calculated as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. However, the schedule relied for applying multiplier is set aside by this Court in the matter of ***Panjabrao Ganpatrao Borade Vs. State of Maharashtra reported in 2015(4) ALL M.R. 58.*** According to petitioner, thereafter, the notification dated 26th May, 2015 has been issued, which ought to have been considered for applying the multiplier.

2] Learned AGP states that on the date the award was passed, the multiplier applicable was as per the notification dated 13th August, 2014. As such, the same has been rightly applied. The notification has been struck down subsequently.

3] Mrs. Kutti, learned counsel for the Acquiring Body adopts and accepts the argument of learned AGP.

4] We have considered the submissions advanced by the counsel for the respective parties. It is not disputed that the first schedule of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, has been struck down by this Court vide judgment and order dated 9th March, 2015 (cited supra). Once the said schedule has been set aside, the compensation awarded by applying said schedule would be improper. This Court by an interim order allowed the respondents to pass the award, however, it observed that if the schedule is struck down then compensation will have to be awarded, as would be determined subsequently by the schedule. Considering the fact that the multiplier vide notification dated 13th August 2014 has been set aside, the respondents will have to recalculate the compensation as per the multiplier, vide notification dated 26th May, 2016. In the result, we pass the following order :-

[a] The amount of compensation computed vide award dated 14.2.2015 is quashed and set aside;

[b] Respondents shall re-calculate the compensation amount by applying the multiplier introduced vide notification dated 26th May, 2015. Earlier amount paid vide award dated 14th February 2015 shall be adjusted. Said amount shall be recalculated expeditiously and in any event within 4 months from today and payment pursuant thereto, after adjusting the amount already paid to the petitioner, shall be made within further period of 4 months from the date of determination.

[c] Rule made absolute in above terms. No costs.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-