

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3006 OF 2015
WITH WP/3007/2015 WITH WP/3008/2015 WITH WP/3009/2015 WITH
WP/8334/2014 WITH WP/8336/2014

VITHAL NIVRUTI WAGHMARE AND OTHERS
VERSUS
THE STATE OF MAHRASHTRA AND ANOTHER

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Advocate for Petitioners : Mrs. P. G. Sontakke
AGP for Respondent No.1 : Mr. V. D. Rakh.
Advocate for Respondent No.2 : Mr. S. C. Arora in WP/3006/2015
Advocate for Respondent/Acquiring Body : Mr. S.G. Sangle.

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

DATE : 22nd FEBRUARY, 2016.

PER COURT:

1] Mrs. Sontakke, learned counsel for the petitioner submits that in case of some of the petitioners the possession of the land of the petitioners has been taken prior to issuance of notification under Section 4 of the Land Acquisition Act. Reference Court has passed an award under Section 18 of the Land Acquisition Act. Petitioners are entitled for rental compensation as per the Government Policy and the law. According to learned counsel, in respect of other petitioners, wherein, the land was acquired by another similar notification, this Court has directed the Special Land Acquisition Officer, to determine the rental compensation and if it comes to the conclusion that the petitioners therein are entitled for the said amount, the Acquiring Body shall pay the amount within 4 months. According to the learned counsel, petitioners are similarly situated.

2] Mr. Sangle, learned counsel appearing for the Acquiring Body

submits that it is only in W.P. No. 3006 of 2015 and 8336 of 2014, the possession has been taken prior to issuance of notification under Section 4 and in rest of the matters, the possession has been taken after issuance of notification under Section 4 of the Land Acquisition Act. AS such, in those case, the petitioners are not entitled for any rental compensation. The learned counsel further submits that in the earlier W.P. No. 6982 of 2013 with connection writ petitions, which was decided vide order dated 7th October, 2014, it was not brought to the notice of the court that appeals against the award passed by the Reference Court under Section 18 of the Land Acquisition Act are filed and pending in this Court and this Court has granted stay. In all these matters, the acquiring body has filed appeals before this court against the award passed by the Reference Court and this Court has granted stay to the award passed by the Reference Court. As such, the amount of rental compensation is not payable to the petitioners.

3] We have heard the learned AGP as well.

4] We have considered the submissions. As far as the date of possession is concerned, same will be required to be considered by the Special Land Acquisition Officer. It is submitted by the Acquiring Body that the possession of the land in W.P. Nos. 3006 of 2015 and 8336 of 2014 is taken prior to issuance of notification under Section 4 and in all rest of the petitions, possession of the land has not been taken prior to issuance of notification under Section 4. Said aspect naturally will have to be considered by the Special Land Acquisition Officer while entertaining and deciding the applications for payment of rental compensation, of course, after hearing the petitioners and the Acquiring Body. The Acquiring Body can bring this fact to the notice of the Special Land Acquisition Officer.

5] The Special Land Acquisition Officer shall decide the application filed by the petitioners for grant of rental compensation within a period of 6 months after hearing all parties concerned. In case, the SLAO comes to the

conclusion that the some amount is payable towards rental compensation, then the Acquiring Body shall deposit the said amount in this Court, in the respective pending First Appeals, withdrawal of which would be subject to the decision of this Court in the pending First Appeals. Parties may file appropriate applications in the said pending appeals.

6] Writ petition is accordingly disposed of. No costs.

[A.M. BADAR]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

grt/-