IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.438 OF 2014

Chandrabhaga Damodar Raut and Others. .. Petitioners
Vs
The State of Maharashtra and Others. .. Respondents
–
Shri T.D. Deshmukh along with Shri Ritesh Kulkarni and Shri Samrat K. Shinde for the Petitioner.
Shri V.B. Thadhani, AGP for the Respondent Nos.1 to 3.
Shri C.M. Lokesh i/b M/s.A.R. Bhole & Co for the Respondent Nos.4 and 5.
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CORAM : A.S. OKA & C.V. BHADANG, JJ
DATED : 23RD FEBRUARY 2016

ORAL JUDGMENT : (PER A.S.OKA, J)

1. Heard learned counsel appearing for the Petitioners and the learned appearing for the fourth and fifth Respondents. The learned AGP represents the first to third Respondents. On the last date, the parties were put to notice that the Petition will be taken up for final disposal at the admission stage.

2. This Petition under Article 226 of the Constitution of India relates to the lands more particularly described in Paragraph 3 of the Petition. On 16th August 1988, a notice under Sub-section (2) of Section 32 of the Maharashtra Industrial Development Act, 1961 (for short “the MID Act”) was served to the Petitioners informing the

Petitioners about the intention of the fourth Respondent to acquire the lands subject matter of this Petition. According to the case of the Petitioners, negotiations were held between the State Government and the Petitioners as well as the other landlords in accordance with Clause (a) of Sub-section (3) of Section 33 of the MID Act and it was agreed that the compensation will be paid to them at the rate of Rs.2,50,000/- per Hectare. In this Petition which is filed in March 2013, a grievance is made that the amount in terms of the settlement dated 17th April 2010 has not been released. On 7th January 2016, this Court recorded the statement of the Petitioners that in terms of the settlement, an order under Sub-section (2) of Section 33 of the MID Act was made on 22nd May 2013.

3. Today, the additional affidavit has been tendered by the learned counsel appearing for the Petitioners of the second Petitioner. It is stated that pursuant to the order dated 22nd May 2013, the entire compensation has been paid to the Petitioners on 14th February 2014. In view of the said affidavit, the learned counsel appearing for the Petitioners states that now the claim in the Writ Petition is confined to the grant of interest on the compensation amount. He is relying upon the judgment and order dated 13th December 2013 in Writ Petition No.4121 of 2013 and other connected Petitions. He submits that in view of the law laid down by this Court, the compensation ought to

have been paid within a reasonable time from the date of execution of the agreement and as the same was not paid within the reasonable time, interest will be payable on the compensation amount from the date of execution of the agreement in writing.

4. The learned counsel appearing for the fourth and fifth Respondents submitted that no interest is payable under the statute. The learned AGP supported the contention raised by the learned counsel appearing for the fourth to fifth Respondents

5. We have considered the submissions. We have perused the judgment and order dated 13th December 2013. This Court disposed of several Petitions wherein there were agreements executed on 17th April 2010 between the owners of the lands and the State Government in terms of Clause (a) of Sub-section (3) of Section 33 of the MID Act under which it was agreed to pay compensation at the rate of Rs.2,50,000/- per Hectare. This Court considered the provisions of the MID Act. Paragraphs 10 and 11 of the said judgment and order read thus:

> "10. Therefore, once there is a lawful agreement contemplated by Sub-section (3A) of Section 33 of the said Act, the Collector is under an obligation to make an award directing payment of compensation in terms of the agreement. It is obvious that such award has to be made expeditiously and atleast within a reasonable

time from the date on which the Agreement is reached. On this aspect, the scheme of the said Act is completely different from the Land Acquisition Act, 1894. In view of Sub-section (1) of Section 32 of the said Act, on the basis of a notice published in Government Gazette, there is a vesting of the land in the State Government. Under the provisions of the Land Acquisition Act, 1894, vesting can be in terms of Section 16 when the possession of the acquired land is taken over only after passing of the Award under Section 11 and only after the compensation is offered in terms of the Award. Only in exceptional cases, when Section 17 is invoked, the possession can be taken over of the acquired land even before an Award is made. But, in such a case, before the possession is taken, 80% of the estimated compensation has to be offered to the owner or the person interested. In case of acquisition under the said Act, the owner or person interested is divested of his rights in respect of the acquired land immediately on publication of a notice under Sub-section (1) of Section 32 of the said Act in Gazette.

11. There is a second aspect which is more important. Once there is an award made in accordance with the agreement under Sub-section (3A) of Section 33 of the said Act, the Claimant or the person to be compensated is deprived of his remedy under Section 34 of the said Act of making an application for Reference to the Court for claiming enhancement in the compensation. The reason being that once the compensation is determined in terms of the agreement under Sub-section (3A), the person to be compensated cannot be said to be a person aggrieved by the decision of the Collector as the compensation is determined in accordance with the agreement."

6. In Paragraph 12, this Court dealt with the facts of the case wherein the agreements were arrived at on 17th April 2010 but the

agreements in writing were executed few months thereafter. This Court observed that the Awards (orders) were passed in terms of the settlement three years after the settlement. Hence, the fact situation in those Petitions is more or less the same as that of the fact situation in the present Petition. In Paragraph 16 of the said judgment and order, this Court held thus:

> "16.Therefore, in exercise of powers under Article 226 of the Constitution of India, this is a fit case to direct payment of interest on the unpaid amount of compensation from the respective dates of the written agreements. The question is what should be the rate of interest. The interest has to be reasonable, but it must adequately compensate the Petitioner for the delay. Therefore, we are of the view that the interest will be payable at par with maximum rate of interest paid by the State Bank of India on the fixed deposits as of 2010. In the year 2010, rate of interest of the State Bank of India on the fixed deposits for a period of 3 to 5 years was 8.25% per annum. We propose to grant three months' time to the Respondents to pay compensation to the Petitioners/Claimants together with interest as stated above."

7. It is not pointed out by the learned counsel appearing for the Respondents that the judgment and order dated 13th December 2013 was not challenged by the said Respondents.

8. Hence, the present Petition will be governed by the said judgment and order dated 13th December 2013. Accordingly, we dispose of the Petition by passing the following order.

ORDER :

(a) We direct the Respondents to pay interest at the rate of 8.25% per annum on the compensation amount to the Petitioners from the respective dates on which the Petitioners have executed the agreements with the State Government till the actual date of payment of the compensation payable;

(b) The amount of interest shall be paid within a period of three months from today;

(c) There will no orders as to costs;

(d) The Petition is disposed of on above terms.

(C.V. BHADANG, J) (A.S. OKA, J)