

ssp

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
WRIT PETITION NO.235 OF 2016

Shashikala Chandrakant Pagare & Anr. ...Petitioners
vs.
State of Maharashtra & Anr. ...Respondents

ALONG WITH
WRIT PETITION NO.349 OF 2016

Madhukar @ Madhav Govind Pagare
and another ...Petitioners
vs.
State of Maharashtra & Anr. ...Respondents

ALONG WITH
WRIT PETITION NO.350 OF 2016

Prakash Amruta @ Amrutrao Pagare ...Petitioner
vs.
State of Maharashtra & Anr. ...Respondents

ALONG WITH
WRIT PETITION NO.356 OF 2016

Vijay Malhari Pagare ...Petitioner
vs.
State of Maharashtra & Anr. ...Respondents

ALONG WITH
WRIT PETITION NO.495 OF 2016

Amit Nana Pagare ...Petitioner
vs.
State of Maharashtra & Anr. ...Respondents

ALONG WITH
WRIT PETITION NO.700 OF 2016

Raju Nana Pagare ...Petitioner
vs.
State of Maharashtra & Anr. ...Respondents

Mr.Sachin Gite for the Petitioners in all petitions
Mr.V.B.Thadhani, AGP for the respondent No.1 in all
petitions

CORAM : A.S.OKA, &
R.D.DHANUKA, JJ.
DATE : MARCH 4, 2016

P.C.:

1 Heard the learned counsel for the petitioners and the learned AGP for the respondent No.1. On 23rd February 2016 when these petitions appeared on board, the parties were put to notice that an endeavour will be made to decide the petitions finally at the stage of admission. Considering the order which we are proposing to pass, notice to the respondent No.2 which is claiming to be Acquiring Body is dispensed with.

2 The lands allegedly held by the petitioners were acquired under the provisions of the Land Acquisition Act,1894 (for short 'the said Act'). The petitioners have made applications under sub-section (1) of section 28-A of the said Act for re-determination of compensation. The present petitioners made the said applications on 14th May 2012. By the said applications, re-determination of the compensation was sought by them on the basis of the Judgment and Award dated 14th December 2011 passed by the learned 4th Joint Civil Judge (S.D.),

Nashik in Land Acquisition Reference Nos.248/2004 to 266/2004 and 266 of 2004 on 14th December 2011.

3 The submission of the learned counsel for the petitioners is that the applications under sub-section (1) of section 28-A have been kept pending for inordinately long time. The learned AGP has no instructions about the status of the pending applications. Neither the learned counsel for the petitioners nor the learned AGP are in a position to state whether any appeal is pending against the Judgment and Award passed in the Land Acquisition Reference Nos.248 to 262 and 266 of 2004.

4 If there are no appeals pending against the said Judgment and Award, the Land Acquisition Officer before whom the applications are pending is under an obligation to decide the same within a reasonable time. The applications are pending since last more than three and half years. Therefore, the applications will have to be decided in a time bound schedule. If the appeals are pending against the said Judgment and Award, it will be the discretion of the Land Acquisition Officer to decide whether the applications made by the petitioners should be kept pending till the disposal of the Appeals or should be decided in accordance with law.

5 Hence, we dispose of the petitions by passing the following order:

(I) We direct the petitioners or their

representative to appear before the Special Land Acquisition Officer No.2 at Nashik on 4th April 2016 at 11.00 a.m. The petitioners or their representative shall produce an authenticated copy of this order before the Special Land Acquisition Officer;

(II) After production of the authenticated copy of this Judgment and Order, the Special Land Acquisition Officer shall call for the report on the issue whether any appeals preferred against the Judgment and Award dated 14th December 2011 in Land Acquisition Reference Nos.248 of 2004 to 262 and 266 of 2004 are pending;

(III) If the Special Land Acquisition Officer finds that no appeals are pending, he shall decide the pending applications under sub-section (1) of Section 28-A of the said Act as expeditiously as possible and in any event on or before 31st August 2016;

(IV) If the Special Land Acquisition Officer finds that the appeals are pending against the said Judgment and Award, it will be for the said Officer to decide whether the applications made by the petitioners shall be kept pending or the same can be decided;

(V) Needless to add that the Special Land Acquisition Officer will be under an obligation to give an opportunity of being heard to the respondent No.2 before deciding the pending applications;

(VI) The issue of maintainability of the pending

applications under sub-section (1) of section 28-A of the said Act as well as the issue of limitation are kept open;

(VII) Writ petitions are disposed of on above terms;

(VIII) All concerned to act upon an authenticated copy of this order.

(R.D.DHANUKA, J.)

(A.S.OKA, J.)