

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
WRIT PETITION NO.354 OF 2016

Dinkar Govind Pagare ...Petitioner
vs.
State of Maharashtra & Anr. ...Respondents

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

1 Heard the learned counsel for the petitioner
and the learned AGP for the respondent No.1. On 23rd
February 2016 when the petition appeared on board,
the parties were put to notice that an endeavour
will be made to decide the petition 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 petitioner were acquired under the provisions of the Land Acquisition Act, 1894 (for short 'the said Act'). The petitioner has made application under sub-section (1) of section 28-A of the said Act for re-determination of compensation. The present petitioner made the said application on 14th May 2012. By the said application, re-determination of

the compensation was sought by him 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 No.260 of 2004 on 14th December 2011.

3 The submission of the learned counsel for the petitioner is that the application under sub-section (1) of section 28-A has been kept pending for inordinately long time. The learned AGP has no instructions about the status of the pending application. Neither the learned counsel for the petitioner 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 No.260 of 2004.

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

5 Hence, we dispose of the petition by passing

the following order:

- (I) We direct the petitioner or his representative to appear before the Special Land Acquisition Officer No.2 at Nashik on 4th April 2016 at 11.00 a.m. The petitioner or his 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 appeal is preferred against the Judgment and Award dated 14th December 2011 in Land Acquisition Reference No.260 of 2004 is pending;
- (III) If the Special Land Acquisition Officer finds that no appeal is pending, he shall decide the pending application 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 appeal is pending against the said Judgment and Award, it will be for the said Officer to decide whether the application made by the petitioner 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

application;

(VI) The issue of maintainability of the pending application under sub-section (1) of section 28-A of the said Act as well as the issue of limitation are kept open;

(VII) Writ petition is 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.)