

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No.6272 OF 2015

Asha Nilkanth Mahakalkar and others.

-Vrs.-

The State of Mah. And Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. P.S. Kshirsagar, counsel for petitioners.
Mrs. Hiwase, AGP for respondent nos.1 & 2.
Mr. V.G. Palshikar, counsel for respondent no.3.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : 15th March, 2016

Heard advocate Kshirsagar who fairly states that in the light of Division Bench Judgment of this court dated 9.3.2015 in W.P.No.4274 of 2014 at Aurangabad Bench, the grievance of the petitioners will be redressed if Land Acquisition Officer is required to apply multiplier of '2' as use of multiplier of '1.05' is already quashed and set aside by this Court.

He also adds that petitioner is found entitled to receive rental compensation for the period from the date of releasing compensation in 1996 till the date of declaration of Award under Section 11 of the Land Acquisition Act, 1894.

He fairly clarifies that however, as per law the petitioners are entitled to rental compensation as per government resolution from the date of taking possession till

the date of Section 4 notification and hence Land Acquisition Officer be directed to compute it.

Shri Palshikar points out availability of remedy under Section 18 of Land Acquisition Act, 1984.

Learned A.G.P. appearing for respondent nos. 1 & 2 is seeking time to obtain instructions.

It is apparent that grievance in relation to rental compensation cannot be looked into in reference under Section 18 of Land Acquisition Act, 1894.

Similarly, correctness or otherwise of multiplier '1.05' used by Land Acquisition Officer as per earlier government policy could not have been assailed in Section 18 proceedings. It is no doubt true that that multiplier is found unconstitutional by Division Bench judgment of this Court dated 9.3.2015 mentioned supra.

In this situation, we find no substance in the contention of advocate Palshikar that alternate remedy is available to petitioners.

Petitioners have very fairly restricted their grievance.

We, therefore, direct the petitioners to make representation/application pointing out all these calculations by using multiplier of '2' and also the computation of rental compensation from the date of losing possession in 1996 till the date of Section 4 notification. If such representation/application is made to respondent no. 2 within period of four weeks from today, the respondent no.2 shall after hearing respondent no. 3 and petitioners, take suitable

decision upon it within next three months.

Amounts, if any, becoming payable to petitioners shall thereafter be released to them within next two months.

Acceptance of that amount shall not preclude petitioners from challenging the decision taken by the respondent no.2.

With these directions, we partly allow the petition and dispose it of. No costs.

JUDGE

JUDGE

Hirekhan