

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

WRIT PETITION NO.388/2016

Mr. Sudhakar s/o Vanraj Paraskar and others

...Versus...

State of Maharashtra, through Principal Secretary Jal Sampada & Land
Acquisition Department, Mantralaya, Mumbai and others

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

Court's or Judge's orders

Shri S.S. Sarda, Advocate for petitioners
Shri J.Y. Ghurde, AGP for respondents

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : 03.08.2016

By this petition, the petitioners seek a direction against the respondents to pay interest to the petitioners on the amount of compensation under the provisions of Section 34 of the Land Acquisition Act, 1894.

Shri Ghurde, the learned Assistant Government Pleader appearing on behalf of the respondents raises a preliminary objection to the tenability of the writ petition. It is stated that by this writ petition, the petitioners have sought a mandamus against the respondents to pay interest to the petitioners under Section 34 of the Land Acquisition Act. It is stated that the writ of mandamus could be sought only when a party makes a demand and his request or demand is either rejected or the same is ignored. It is stated that in the instant case,

the petitioners had never made any representation or application to the respondents to grant interest to the petitioners under Section 34 of the Act.

We find much force in the preliminary objection raised on behalf of the respondents, as it is well settled that before seeking a mandamus, a party would be required to make a demand or a request for the performance of the duty in respect of the right of the petitioner and if the demand is not accepted, the party is entitled to approach the Court seeking a writ of mandamus.

Shri Sarda, the learned Counsel for the petitioners, at this stage, states that the petitioners would make a representation to the respondents, within two weeks and if the respondents fail to consider the representation favourably or they do not decide it within a reasonable time, the petitioners would then approach this Court.

In view of the statement made by the learned Counsel for the petitioners, we dispose of the writ petition with no order as to costs. The points raised in the petition are kept open.

JUDGE

JUDGE

C E R T I F I C A T E

I certify that this order uploaded is a true and correct copy of original signed order.

Uploaded by : S.S. Wadkar, P.S.

Uploaded on : 05/08/2016