

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3319 OF 1999

1. Baliram s/o Vyankatrao Gadekar
age 55 years, occ. agril
r/o Gangapur, Tq. & Dist. Latur.
2. Ram s/o Amrutrao Shinde
age 60 years, occ. & r/o as above.
3. Hamidabegam w/o Syed Jayanoddin
age 75 years, occ. agril
r/o as above.
4. Shivling s/o Vishwanathappa Arbale
died through LRs
Navnath Bhiku Kavitke
age 30 years, occ. agril
r/o as above.

Petitioners

Versus

1. The State of Maharashtra
Through Secretary Revenue and
Forest Dept.
Mantralaya, Mumbai
2. Divisional Commissioner
Aurangabad.
3. Special Land Acquisition Officer
Suvarna Project Latur
Dist. Latur

Respondents

Mr S.K. Adkine, advocate for the petitioners.
Mr. S.P. Sonpawale, A.G.P. for Respondents.

CORAM : R.M.BORDE, J.
DATE : 30th MAY, 2017

ORAL JUDGMENT :

1. Petitioners are praying for issuance of directions to respondents to release the amount covered by award declared under section 28A of the Land Acquisition Act.

2. The land belonging to petitioners has been acquired for public purpose. The award came to be declared in respect of the acquired land on 30.06.1992 and the petitioners were granted compensation at the rate of Rs. 25,000/- per hector for dry land and Rs. 37,500/- per hector for irrigated land. Being aggrieved by the award, one of the agriculturists covered by the award approached Civil Court by presenting Land Acquisition Reference No. 50/1992 seeking enhancement in the amount of compensation. The amount of compensation payable to the said agriculturist i.e. Sopan has been enhanced by the Jt. Civil Judge, Senior Division, Latur. Petitioners claimed enhanced amount in accordance with the decision in LAR No. 50/1992 presented by Sopan by presenting proceeding under section 28A of the Land Acquisition Act.

3. Application tendered by petitioners came to be allowed and the award has been declared under section 28A of the Land Acquisition Act. However, as a pre-condition for releasing amount, respondent - Land Acquisition Officer has called upon the petitioners to submit bank guarantee of the Nationalised Bank. Respondent has placed reliance on a circular issued by the State Government on 25.03.1994 directing that in the event of presentation of appeal against the award, which is the basis for

directing enhancement under section 28A of the Land Acquisition Act, in order to secure the amount that would be released by the State Government, the claimant/agriculturist shall be called upon to furnish bank guarantee of Nationalised Bank while releasing the amount.

4. In the instant matter, the circular does not appear to be applicable for the reason that it has not been demonstrated by respondent that any appeal has been presented against the award declared in favour of Sopan i.e. LAR No. 50/1992 decided by Jt. Civil Judge, Senior Division, Latur, on 30.03.1996. There was absolutely no reason for the respondent - Land Acquisition Officer to call upon the petitioners to furnish bank guarantee as a pre-condition for releasing the amount. Direction issued by respondent in that regard is accordingly quashed and set aside. Respondents are directed to release the amount determined under section 28A of the Land Acquisition Act in favour of petitioners together with interest till the date of payment of amount, as expeditiously as possible, preferably within a period of six weeks from today. Respondent shall not insist upon the petitioners to submit any bank guarantee or solvent security and shall release the amount unconditionally. Rule is accordingly made absolute. In the facts and circumstances of the case, there shall be no order as to costs.

(R.M.BORDE)
JUDGE