

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3072 OF 2016

Baburao S/o Shankarrao Sul and ors.

.. Petitioners

VS.

The State of Maharashtra and anr.

.. Respondents

Mr. V.G. Kodale, Advocate h/f Mr. V.D. Gunale, Advocate for the
petitioners

Mr. S.B. Yawalkar, A.G.P. for the respondent/State

**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.**

DATE : 06-06-2017

ORAL ORDER :

1. The only grievance raised in this petition is, prior to issuance of the notification under section 4 of the then Land Acquisition Act, 1894, possession of the land was obtained from the petitioners. Though the petitioners' case is that the possession was obtained much prior to such notification, it is denied in the affidavit-in-reply by respondent no.2, by stating that it was only two months prior to such a notification.

2. We do not wish to enter into this claim for payment of rental compensation and allegedly depriving the petitioners of their possession of the land for the reason that the Collector – first

respondent to the petition is stated to be the competent authority to decide this claim. He must bear in mind that the notification under section 4 of the Land Acquisition Act, 1894 was issued on 21/08/1993. The land was acquired in 1993 but the date of obtaining of physical possession has not been set out in the affidavit in precise terms and the Land Acquisition Officer has published the award on 24/02/1999, reference under section 18 was decided by the competent Court on 15/04/2011. Even the Collector should also consider the petitioners' grievance that this reference Court is not competent to rule upon the petitioners' claim for rental compensation.

3. Therefore, the Collector himself shall determine and decide the claim uninfluenced by the affidavit placed by second respondent before this Court. He shall consider the request of the petitioners for releasing payment of rental compensation in accordance with law and render his decision by treating the present petition as the representation of the petitioners. He should render his decision as expeditiously as possible and within a period of two (2) months from the date of receipt of copy of this order.

4. We clarify that the Collector shall not influence himself by the contents of the affidavit of the second respondent filed on

record of the petition. We keep open all contentions of the petitioners as well.

5. Writ Petition stands disposed of accordingly.

[MANGESH S. PATIL]
JUDGE

[S.C. DHARMADHIKARI]
JUDGE

arp/