

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4064 OF 2006

The Executive Engineer,
Nandur Madhmeshwar Canal Division,
Vaijapur, Tq.Vaijapur, Dist.Aurangabad – PETITIONER

VERSUS

1. The State of Maharashtra,
through Collector, Aurangabad,
2. The Special Land Acquisition Officer,
Jaikwadi Project No.2, Collector Office,
Aurangabad, Tal. And dist.Aurangabad,
3. Kacharu Rakhamaji Bhosale,
Age-50 years, Occu-Agriculturist,
R/o Vaijapur, Tq. Vaijapur,
Dist.Aurangabad – RESPONDENTS

WITH
WRIT PETITION NO.4067 OF 2006

The Executive Engineer,
Nandur Madhmeshwar Canal Division,
Vaijapur, Tq.Vaijapur, Dist.Aurangabad – PETITIONER

VERSUS

1. The State of Maharashtra,
through Collector, Aurangabad,
2. The Special Land Acquisition Officer,
Jaikwadi Project No.2, Collector Office,
Aurangabad, Tal. And dist.Aurangabad,
3. Govind Narayanrao Bhosale,
Age-80 years, Occu-Agriculturist,
R/o Vaijapur, Tq. Vaijapur,
Dist.Aurangabad – RESPONDENTS

WITH
WRIT PETITION NO.4066 OF 2006

The Executive Engineer,
Nandur Madhmeshwar Canal Division,
Vaijapur, Tq.Vaijapur, Dist.Aurangabad – PETITIONER

VERSUS

1. The State of Maharashtra,
through Collector, Aurangabad,
2. The Special Land Acquisition Officer,
Jaikwadi Project No.2, Collector Office,
Aurangabad, Tal. And dist.Aurangabad,
3. Walmik Tukaram Bornare,
Age-45 years, Occu-Agriculturist,
R/o Vaijapur, Tq. Vaijapur,
Dist.Aurangabad – RESPONDENTS

WITH
WRIT PETITION NO.4065 OF 2006

The Executive Engineer,
Nandur Madhmeshwar Canal Division,
Vaijapur, Tq.Vaijapur, Dist.Aurangabad – PETITIONER

VERSUS

1. The State of Maharashtra,
through Collector, Aurangabad,
2. The Special Land Acquisition Officer,
Jaikwadi Project No.2, Collector Office,
Aurangabad, Tal. And dist.Aurangabad,
3. Kamlabai w/o Rikhibdas Sancheti,
Age-62 years, Occu-Agriculturist
and Household,
R/o Vaijapur, Tq. Vaijapur,
Dist.Aurangabad – RESPONDENTS

WITH
WRIT PETITION NO.4074 OF 2006

The Executive Engineer,
Nandur Madhmeshwar Canal Division,
Vaijapur, Tq.Vaijapur, Dist.Aurangabad – PETITIONER

VERSUS

1. The State of Maharashtra,
through Collector, Aurangabad,
2. The Special Land Acquisition Officer,
Jaikwadi Project No.2, Collector Office,
Aurangabad, Tal. And dist.Aurangabad,
3. Kacharu Rakhamaji Bhosale,
Age-50 years, Occu-Agriculturist,
R/o Vaijapur, Tq. Vaijapur,
Dist.Aurangabad – RESPONDENTS

WITH
WRIT PETITION NO.4271 OF 2006

The Executive Engineer,
Nandur Madhmeshwar Canal Division,
Vaijapur, Tq.Vaijapur, Dist.Aurangabad – PETITIONER

VERSUS

1. The State of Maharashtra,
through Collector, Aurangabad,
2. The Special Land Acquisition Officer,
Jaikwadi Project No.2, Collector Office,
Aurangabad, Tal. And dist.Aurangabad,
3. Jaganath Shamrao Saluke,
Age-56 years, Occu-Agriculturist,
R/o Vaijapur, Tq. Vaijapur,
Dist.Aurangabad. – RESPONDENTS

Mr.V.R.Sonwalkar, Advocate for the petitioner.
Mr.P.F.Patni, Advocate for respondent No.3.
Mr.S.K.Tambe, AGP for respondent Nos. 1 and 2.
Mr.A.B.Kale, Advocate for respondent No.3 in WP No.4074/2006.

(CORAM : Ravindra V.Ghuge, J.)
DATE : 03/08/2017

ORAL JUDGMENT :

1. In all these petitions, this Court had passed a detailed order on 17/04/2007 by which these petitions were admitted and ad-interim relief staying the impugned awards, which were passed u/s 28-A of the Land Acquisition Act, 1894 was granted. These petitions were to be heard alongwith First Appeal Stamp No.19676/2006 wherein the Awards u/s 18 have been challenged.

2. Since the petitioner is the identical acquiring body and the respondents are identically placed claimants whose lands have been acquired in a public project, it would be sufficient to reproduce the prayer put forth in these petitions by way of a specimen hereunder -

“B. By issuing a writ of certiorari and any appropriate writ and/ or directions and/or orders the impugned award passed by respondent No.2 in Land Acquisition Case No. LAQ/JP/2/AR/59/87, dated 18/02/2005, on application of the respondent No.3 u/s 28-A of the Land Acquisition Act, be quashed and set aside. And application of the respondent No.3, filed u/s 28-A of the Land Acquisition Act, be rejected with costs.”

3. The petitioner herein has challenged the impugned awards primarily on two grounds. Firstly, that the petitioner/Acquiring Body was not arrayed as party defendant and secondly, no oral evidence was led even on behalf of the State.

4. After considering the submissions of the learned Advocates, I find that the impugned awards in these petitions are based on the awards delivered by the L.A.R. Court in various LAR proceedings initiated by the original claimants u/s 18 of the Land Acquisition Act, 1894. There is no dispute that the proceedings u/s 28-A are essentially and necessarily based upon the verdict of the L.A.R. Code in the Section 18 proceedings. The judgment delivered in the group of LAR proceedings involving these claimants is dated 11/10/1999 which is a common judgment in the LAR proceedings. Vide the said judgment, the L.A.R. Court has granted compensation to each of these claimants alongwith interest on the original amount of compensation as well as on the enhanced compensation.

5. The first appeals filed by the petitioner / acquiring body bearing Nos. 2158/2009 and a group of first appeals challenging the award u/s 18, were considered by this Court (Coram : S.V.Gangapurwala,J.) and by judgment dated 13/08/2012, the impugned awards were

quashed and set aside. The matters were remitted to the Reference Court for a decision afresh and it was specifically directed that the petitioner/acquiring body shall be impleaded as a respondent in each of the LAR proceedings. As such, the basis of the impugned award in these petitions which is the award u/s 18, has been set aside. Mr.Patni learned Advocate for some of the claimants has tendered a photo-state copy of the judgment dated 25/06/2015 delivered by the Reference Court in LAR No.10/2013 (Old LAR No.396/1993) in the matter of Hiralal Kishansing (now deceased).

6. As such, considering the judgment of this Court dated 13/08/2012 in the group of first appeals, the LAR proceedings u/s 18 have now been adjudicated upon after remand by the Reference Court. The petitioner/acquiring body was added as respondent No.2 under the orders of this Court. Consequentially, the first grievance of the petitioner herein that it was not added as a respondent, stands redressed as it has already been added as a defendant. The second grievance of the petitioner is also redressed in the sense that since the award u/s 18 has been set aside, the impugned award u/s 28-A will also have to be set aside as 'fait accompli'.

7. Considering the above, all these petitions are partly allowed. The

impugned awards u/s 28-A mentioned in the prayer clauses of these petitions stand quashed and set aside and the following land acquisition proceedings u/s 28-A stand restored to the Special Land Acquisition Officer-Cum-S.D.O. Vaijapur in the light of the subsequent amendments.

8. Needless to state, the claimants shall move the S.L.A.O. for seeking amendment to their applications if felt necessary and shall place on record a copy of the judgment of the Reference Court in their respective LAR proceedings. By consent, the parties are agreeable to appear before the S.L.A.O.-cum-S.D.O. Vaijapur on 28/08/2017 at 3.00 p.m. and formal notices need not be issued. The claimants shall forthwith add the Acquiring Body as a respondent in each of their application.

9. Considering the passage of time and the round of litigations suffered by the litigating sides, the S.L.A.O.-cum-S.D.O. Vaijapur shall decide the said proceedings as expeditiously as possible and preferably on or before 29/12/2017. It is expected that the acquiring body shall be sensitive in making prompt payment of the amounts as may be settled by the S.L.A.O., subject to their further rights of litigation.

(Ravindra V.Ghuge, J.)