IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

12 WRIT PETITION NO. 11427 OF 2015

SHIVAJI SOPAN YADAV AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS
...
Advocate for Petitioners : Mr. Bhise Sachin S
AGP for Respondents 1 ti 6: Mrs. Vaishali H.Patil
Advocate for Respondent No.7 : Mr. D. S. Kulkarni
Advocate for Respondent No.8 : Mr. Milind M.Patil Beedkar
Advocate for Respondent No.9 : Mr. D.G. Nagode

CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.

DATE : 5th January, 2017

ORDER:

1. Mr. Bhise, the learned counsel for the petitioners submits that all these petitioners own their agricultural land. They had sown soybean crop. The same was insured. Premium was paid to the extent of 150%. However, the respondent- Maharashtra Gramin Bank, the Nodal Bank, did not forward the additional claim with the Insurance Company within the stipulated period. The petitioners are paid the amount only to the extent of 60% and not 150% though the premium was paid by all these petitioners to that effect. The petitioners are entitled for the remaining amount either from the Insurance Company or the Bank.

2. Mr. Kulkarni, the learned counsel for the

Insurance Company submits that as per the Government Resolution dated 5th July, 2014, the maximum crop that would be insured was to the extent of 150%. The crop of the petitioners was insured by the respondent Insurance Company through respondent Bank which was the nodal entity. The claim was made by the Bank in respect of 60% and not 150% and the insurance amount was paid considering the claim to the extent of 60%. The Bank subsequently, after the cut off date on 30th April, 2016, submitted the revised proposal. As the same was after the cut off date, the Insurance company was not liable to make the payment.

3. Mr. Patil, the learned counsel for the respondent Bank submits that the respondent Bank no doubt is a nodal bank. It had collected the premium amount from the petitioners and also forwarded it to the Insurance company, however, because of some clerical error the claim of the petitioners to the extent of 150% was not forwarded and the claim only to the extent of 60% was forwarded before the cut off date. However, on realizing the mistake, on 30th April, 2016, revised proposal was forwarded. The same was not considered. The Insurance company was bound to make the payment. The amount of premium is also paid to the

Insurance company and as such the Bank is not liable to make the payment.

4. The learned counsel further submits that the Insurance company has referred the dispute to the Committee formed by the Central Government to resolve the dispute. Though it was submitted by the Union that the Committee has decided the said dispute, however, as per the minutes of the meeting of the Committee for settlement of additional claim held on 29th September, 2016, it refers only to the additional claims made vide letter dated 06.02.2016, whereas the additional claims were made under proposal dated 30.04.2016. The said claims were not at all considered by the Committee. The Committee has to decide the said claim and then only directions can be given in that regard as against the Bank or otherwise. As the Insurance company is primarily liable to make the payment, it is for the Insurance company to make the payment.

5. Mr. Nagode, the learned counsel for the Union states that the Committee has decided all the additional claims. Even it was decided that the Bank is liable to make the payment of additional claim as there was delay on the part of the Bank.

6. We have considered the submissions canvassed by the learned counsel for the respective parties.

7. Upon hearing the contentions of the learned counsel for the respective parties, the undisputed fact that emerges is that the petitioners are entitled for payment of their claim at 150% and that the petitioners have paid premium insuring their crop to the extent 150% and the said payment was made to the respondent Bank which is a nodal entity. All the parties are unanimous on the aspects that the petitioners have been paid their claim considering that premium is paid only to the extent of 60%, whereas the premium has been paid by the petitioner to the extent of 150%.

8. In view of the above, it is abundantly clear that the petitioners are entitled to be compensated considering that the premium has been paid to the extent of 150% and even as per the Government Resolution dated 5th July, 2014, by virtue of which the instant scheme was floated, the maximum insurance amount of the crop would be to the extent of 150% of the average yield. It is not disputed that it was decided that 63% would be the average yield and the compensation is to be paid considering the same.

9. It is also not disputed that the Bank has failed to submit the proposal in respect of the additional claim before the cut off date. The contention of the Bank is that the Committee before which the dispute was raised has not decided about the liability of the Bank to make the payment of the additional claim and no reference is found in the said minutes of the meeting in respect of additional claim submitted by the Bank on 30.04.2016.

10. The dispute between the insurance company and the Bank about the liability to make the payment would be their inter se dispute and the claimant would be unconcerned with it. The claimant certainly would be entitled for the amount as detailed in Government Resolution dated 5th July,2014. The amount is also crystallized. The petitioners are required to make the payment as per the claims and the crop ensured by them to the extent of 150% of the yield. Admittedly, the respondent Bank being the nodal bank has forwarded the revised proposal after the cut off date. The Committee, in respect of the additional claims submitted in February, 2016 has held the Bank responsible to make the payment.

11. In the light of above, we pass following order:

O R D E R

i. The Insurance Company shall make the demand with respondent No.8 Maharashtra Gramin Bank Branch Patoda Taluka Ambejogai after assessing the amount to be paid to the petitioners as discussed above within a period of four weeks and then respondent No.8 Bank shall make payment of the said amount to respondent No.7 Insurance company within six weeks thereafter. Respondent No.7 shall thereafter, within six weeks, make the payment to the petitioners after verifying the record. The payment made shall be subject to the decision of the Committee.

ii. In case respondent No.8 Bank feels that the dispute has not been decided by the committee the respondent No.8 may approach the committee and in that case, the Committee, after hearing the respondent Nos. 7 and 8 shall take decision about the liability of payment of additional claims i.e. either of respondent no.7 or respondent no.8 accordingly.

12. The writ petition is accordingly disposed of with aforesaid observations and directions. No costs.

(K. L. WADANE, J.) **(S. V. GANGAPURWALA, J.)**

JPC