

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.698 OF 2016

Ganpati@ Gana Shankar Kale
through LR
Rajendra Ganpati@ Gana Kale

Petitioner

Versus

The State of Maharashtra and others

Respondents

WITH
WRIT PETITION NO.702 OF 2016

Digambar S/o Kisanrao Ingale

Petitioner

Versus

The State of Maharashtra and others

Respondents

WITH
WRIT PETITION NO.703 OF 2016

Rjabhau S/o Sheshrao Sherkar

Petitioner

Versus

The State of Maharashtra and others

Respondents

Mr. S.T. Veer, Advocate for Petitioners
Mrs. A.V. Gondhalekar AGP for Respondents 1 to 3
Mr. Shyam Arora Advocate for Respondent No.4

CORAM : **R.M. BORDE &
P.R. BORA, JJ**

(Date : 15TH March, 2017.)

PER COURT :-

1 Petitioners are seeking directions to respondent Nos.2 and 3 to decide the applications tendered by them under section 28(A) of the Land Acquisition Act on 24.12.2013, 8.1.2014, 13.1.2014 expeditiously.

2 Learned counsel appearing for respondent No.4 informs that, an appeal has been preferred against the Judgment & Award passed by the Reference Court, which is the basis for tendering an application under section 28(A) of the Act by the petitioners and that the appeal has been admitted.

3 It is not a matter of dispute that, in view of failure of the acquiring body to deposit the amount, as directed by the Appellate Court, the interim relief granted in the said appeal stood vacated automatically. Learned counsel appearing for petitioners invites our attention to the Government resolution dated 24.8.2015 and submits that, mere pendency of an appeal presented by the State or acquiring body, challenging the Judgment & Award passed by the reference Court shall not, itself be an impediment for taking decision on the application filed under section 28(A) of the Land Acquisition Act. It is only in the

event of grant of stay by the Appellate Court, to the operation and enforcement of the Judgment & Award passed by the Reference Court, the application under section 28(A) of the Act by the claimants covered by the same section 4 Notification need not be dealt with.

4 A decision has been taken by the State Government with a view to save State finance, in the event of adverse decision in the appeal. In terms of provisions of the Land Acquisition Act, where State is liable to pay interest @ 15% per annum on the amount of compensation determined by the Court or the Collector and on decision on the application under section 28(A) and deposit of amount, running of interest will come to a halt, thereby the financial interest of the State can be protected.

5 Considering the Government Resolution dated 29.8.2015, it is desirable to direct the respondent Nos.1 and 2 to take decision on the applications tendered by the petitioners under section 28(A) of the Land Acquisition Act, as expeditiously as possible and preferably within a period of four months from today and it is accordingly directed. In the event of issuance of directions in respect of payment of enhanced amount of compensation to the petitioners – original claimants, the amount shall be disbursed by

the acquiring body subject to fulfillment of requirements provided under the Government resolution dated 29.8.2015 as expeditiously as possible and preferably within a period of three months from the date of the said decision.

6 With directions as above, writ petitions stand disposed of.

(P.R. BORA, J)

(R.M. BORDE, J)