

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4146 OF 2016
WITH
WRIT PETITION NO. 4147 OF 2016

SARDARODDIN AJAMODDIN KAZI
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER

Advocate for Petitioner : Shri H.B. Nandgawale
h/f. Shri V.G. Sakolkar.
AGP for Respondent No. 1 : Shri N.T. Bhagat.
Advocate for Respondent Nos. 3 to 7 : Shri A.V. Patil-Indrale.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 24th July, 2017

PER COURT :

1. Leave to add prayer for challenging the order dated 18/04/2013, to the extent of the Bank guarantee for the petitioner's 8/9th share in the total amount. Addition be carried out forthwith.

2. I have heard the learned advocates for the respective sides. Shri Patil, learned advocate appearing on behalf of respondent No. 5, strenuously opposes this petition and submits that once a Bank guarantee is given, there is no reason

to modify the order dated 02/04/2013, or even the order dated 18/04/2013. He, therefore, submits that this Court may not exercise its supervisory jurisdiction and dismiss this petition with costs.

3. After considering the submissions of the learned advocates, it is obvious that even if respondent Nos. 3 to 7, succeed in their Regular Civil Appeal No. 16/2013, pending before the learned District Judge - 1, Ahmedpur, they would be entitled to a share, equivalent to $1/9^{\text{th}}$ of the amount of compensation. The petitioner has already tendered a Bank guarantee and has withdrawn the amount equivalent to $8/9^{\text{th}}$ share. There is no dispute about the shares between the parties.

4. This Court in the matter of Pandhari Gangaram Patil & others Versus Special Land Acquisition Officer, Upper Tapi Project, Hatnoor & others [2011 (2) Mh.L.J. 579] and in the matter of Vilas Sumersing Patil Versus Special Land Acquisition Officer [2012 (2) Mh.L.J. 314], has laid down the law that in

such matters where there is no dispute as regards the share of an agriculturist in land acquisition matters, it would be unfair to impose a condition of tendering a Bank guarantee, by the executing Court. In catena of judgments this Court has deprecated imposition of the condition of Bank guarantee in such matters.

5. The executing Court has already secured 1/9th share of the compensation and has directed that the said amount be deposited in a Nationalized Bank so that it would gather interest. If this case is to be viewed from any angle the interest of respondent Nos. 3 to 7, has been secured and is safe even though their Civil Suit No. 13/2007, has been dismissed. The LAR Court has recorded that 1/9th share of the compensation amount is deposited in the Bank in Fixed Deposit No. 833553, dated 20/06/2013.

6. Considering the above, these petitions are partly allowed. The impugned order dated 02/04/2013, and the order dated 03/07/2015, is modified only to the extent of releasing the

petitioner from the Bank guarantee to the extent of his share which is 8/9th of the compensation amount. The Bank guarantee shall, therefore, be released to the extent of 8/9th share of the petitioner in the compensation amount. An undertaking has also been furnished, and if not, shall be furnished by the petitioner on usual terms before the executing Court within four weeks.

(RAVINDRA V. GHUGE, J.)

S.P.C.