

Shri. Baban Kondiba Kadam } Petitioner
versus
State of Maharashtra } Respondents
and Ors. }

Mr. A. B. Vagyani-Government Pleader
with Mr. P. G. Sawant-AGP, Ms. Geetanjali
Golatkar-AAGP and Mr. Rohan Sawant-
AAGP for State.

DATE :- OCTOBER 3, 2017

1. This Public Interest Litigation is filed on behalf of the project affected persons in respect of Thitewadi Dam Project, who claim to be the project affected persons since their lands were acquired for the above said project. In the Public Interest Litigation, the ground raised by the petitioner is that in terms of section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, if 65% of the total compensation amount received by the land loser is deposited within 45 days from the date of receipt of notice demanding such deposit from the land loser, a right is created in the land loser to get alternate land.

2. Earlier, several litigations were filed raising an objection that there is no automatic lapsing of such right of getting alternate land if the notice under section 16 is not served upon the project affected person, who is entitled to claim alternate land. This court has, in earlier round of litigation, clearly opined that the calculation of period of 45 days has to be calculated from the date the notice is actually/in fact received by the project affected person. In other words, it is held that unless the project affected person is notified of his right to seek alternate land by serving notice upon him, the obligation of the authority to give alternate land will not be discharged. Therefore, the obligation is to notify the party and then wait for 45 days from the date of receipt of such notice to deposit 65% of the total compensation amount by the land owner, if he chooses to seek alternate land.

3. In that view of the matter, we are of the opinion that each case has to be decided individually since the criterion to discharge such issue depends upon the facts and circumstances in each case, especially the factum of receipt of notice by the project affected person. Therefore, we are of the opinion that such right of each individual, who falls within the category of project affected person, cannot be decided in general in a Public Interest Litigation.

4. Accordingly, the Public Interest Litigation is disposed of without expressing any opinion whether a particular individual is entitled to seek such benefit or not.

(N. M. JAMDAR, J.)

(CHIEF JUSTICE)