

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10060 OF 2015

Shakilabegam Masumali Shaikh & ors.. Petitioners
V/s
The Union of India and ors .. Respondents

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Dr.Ramdas Sabban, Advocate for the petitioners.

Mrs.Shehnaz V. Bharucha a/w Mr.N.D.Sharma for respondent no.1.

Mr.Rakesh Singh with Mr.S.D.Shetty i/b M.V.Kini & Co for respondent no.3.

Mrs.M.P Thakur, AGP for the State.

CORAM: DR. MANJULA CHELLUR, CJ. &
G.S. KULKARNI, J.

DATED: 31st JANUARY, 2017

P.C.:-

1 Heard learned counsel for the petitioner as well as learned counsel for the respondent authorities as also the State Government.

2 It is not in dispute that for the purpose of widening of Solapur – Hyderabad National Highway, a preliminary notification under section 3-A(1) of the National Highways Act was made way back on 9th July 2013 in respect of several lands. According to the petitioners, in one of those survey numbers, they were the slum dwellers. This is in the rural Solapur which is referred to as “Shelgi”. Apparently, from 1st January 2014, the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation

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and Resettlement Act, 2013 (hereinafter referred to as 'the said Act') came into force. Subsequent, to this, on 9th July 2014, final acquisition declaration under the National Highways Act came to be issued. According to the petitioners, by virtue of notification dated 28th August 2015 issued under sub-section (3) of Section 105 of the said Act, so far as the benefits which accrues to them as the persons having interest in the acquired land (alleged slum dwellers), the benefits have to be given to them in terms of the 2013 enactment.

3 Referring to three ordinances prior to the above notification and the notification itself which is referred to above, the petitioners did approach the respondent authorities by an application dated 31st August 2015. Now, there has to be ascertainment of factual situation whether the petitioners come within the purview of the affected persons and whether they are entitled for any resettlement and then only decision whether they have to be given any benefits in terms of notification referred to above would come. Since the application is already pending before the competent authority, we decline to opine whether the award passed by the competent authority on the alleged instructions from the National Highway Authority is justified or not, especially whether it is in accordance with the procedure contemplated or not. It is for the competent authority to see what would be the legality and validity of such award if it is not in accordance with the procedure contemplated. Therefore, the application seeking benefits whether the petitioners fit into the definition of "affected persons" in terms of the procedure which

has to be referred to and thereafter decide whether they are entitled for the benefits.

4 Accordingly, we dispose of the Writ Petition by directing the competent authority to dispose of the representation/application dated 31st August 2015 within three months from today.

(G.S.KULKARNI, J)

(CHIEF JUSTICE)