

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3773 OF 2017

The Executive Engineer,
Minor Irrigation Division, Jalgaon .. Petitioner
Versus
The State of Maharashtra and others .. Respondents

Shri. S. S. Chillarge, Advocate for the Petitioner.

Shri. A. V. Deshmukh, A.G.P. for Respondent Nos. 1 to 3.

Shri. A. B. Kale, Advocate for Respondent No.4.

**CORAM : S.V. GANGAPURWALA AND
A. M. DHAVALA, JJ.**

DATED : 20th April, 2018

PER COURT:

. The acquiring body challenges the order dated 03.04.2013 and 04.01.2014 thereby granting 30% solatium and 12% component so also rental compensation.

2. Mr. Chillarge, learned counsel for the petitioner submits that possession has been taken by the acquiring body on 10.05.2005. The rental compensation is granted of land as well as trees which is not

permissible. According to the learned counsel amount of 30% solatium and 12% component has been granted by the Special Land Acquisition Officer (for short "SLAO") under the impugned order for the second time which is also not permissible.

3. Mr. Kale, the learned counsel submits that, possession has been taken by the acquiring body from the claimant on 11.01.1998. In fact, rental compensation ought to have been granted from the year 1998. The learned counsel submits that 30% solatium and 12% interest is concerned, the petitioner has received it as per the proposal No. 118/2004 dated 25.04.2011 (Page 26 & 28). As such submits that the order to the extent of 30% solatium and 12 % interest may not apply and was not necessary. However, submits that rental compensation ought to have been from the year 1998.

4. According to Mr. Chillarge, the learned counsel, the claimant was not entitled for rental compensation at all, as the possession has been taken after December - 2003.

5. The dispute appears to be with regard to the date of possession qua payment of rental compensation. As far as the solatium and interest

component is concerned, the petitioner has already been paid as per the proposal No. 118/2004 dated 25.04.2011 (Page 26 & 28). As such it was not necessary for the SLAO to pass the orders granting 30% solatium and 12% interest. The impugned order to the extent of grant of solatium at the rate of 30% and 12% interest from 26.04.2008 to 25.04.2011 under the impugned order is quashed and set aside.

6. The dispute is with regard to grant of rental compensation. The grant of rental compensation would depend upon the date the possession is taken by the acquiring body. As there is dispute with regard to the date the possession is taken, it would be appropriate for both the parties to place on record the documents before the SLAO and the SLAO after considering all the documents placed before him decides the aspect of rental compensation afresh.

6. In the light of the above, the impugned orders are quashed and set aside. The matter is remitted to the SLAO only to the extent of determining the grant of rental compensation to the claimant. The parties shall appear before the SLAO on 04.05.2018. The parties are at liberty to place before the SLAO documents on which they rely. The SLAO shall consider the case put forth by the acquiring body so also

claimants and after hearing both the parties decide the aspect of rental compensation afresh, expeditiously and preferably within a period of four (04) months from the date of appearance of the parties. If the claimant is found entitled for the payment of rental compensation, then the same shall be paid by the acquiring body preferably within six (06) months from the date of order passed by the SLAO. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

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