

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9513 OF 2018
WITH WP/9514/2018 WITH WP/9515/2018 WITH WP/9516/2018
WITH WP/9517/2018 WITH WP/9518/2018 WITH WP/9519/2018
WITH WP/9520/2018 WITH WP/9521/2018 WITH WP/9522/2018
WITH WP/9523/2018 WITH WP/9524/2018 WITH WP/9525/2018
WITH WP/9526/2018 WITH WP/9527/2018 WITH WP/9528/2018
WITH WP/9529/2018 WITH WP/9530/2018 WITH WP/9531/2018
WITH WP/9532/2018 WITH WP/9533/2018 WITH WP/9534/2018
WITH WP/9535/2018 WITH WP/9536/2018 WITH WP/9537/2018
WITH WP/9538/2018 WITH WP/9539/2018 WITH WP/9540/2018
WITH WP/9541/2018

THE STATE OF MAHARASHTRA AND ANOTHER
VERSUS
PIRAJI KISAN MAHARNAVAR

...
Advocate for Petitioners : Shri Yadav-Lonikar S.R.

...
CORAM : RAVINDRA V. GHUGE, J.
Dated: August 20, 2018
...

PER COURT :-

1. I have heard the learned AGP on behalf of the identical petitioner in these petitions. He has specifically drawn my attention to the facts of these cases, wherein, the executing Court has earlier issued a direction and the compensation amounts, payable to the respondents on account of the acquisition of their lands, was ordered to be recovered from the Bank of Baroda, Manik Chowk Branch, Ahmednagar, Account No. 4550200000673. The money was taken out from the Nagarpalika Head and the said amount was deposited in the executing Court, which then ordered the disbursement to the beneficiaries. The decree was,

therefore, satisfied by such method.

2. The learned AGP points out that the funds which were earmarked for disbursement as compensation to the landholders, have now become available. The petitioner desires that an order be passed by an executing Court so as to enable the petitioner to deposit the amounts, earmarked for payment of compensation for land acquisition, in the above stated account which is exclusively meant for the Municipal Council from which account the amounts were withdrawn under the orders of the executing Court for payment of compensation.

3. The order dated 2.2.2018, passed by the executing Court is pointed out by which, Order XXI Rule 46-A of CPC has been invoked by the executing Court and the amounts payable to each of the beneficiary was directed to be withdrawn from the above stated account at Manik Chowk Branch, Ahmednagar. The said amount was deposited in the executing Court and the beneficiaries were paid the compensation through such amounts. By disbursing such amounts, the Darkhast proceedings were disposed off on 17.2.2018, as the decree has been satisfied.

4. It is in this backdrop that the petitioner moved an application dated 13.3.2018, praying for permission from the executing Court to

deposit that amount which the petitioner subsequently received by communication dated 26.2.2018. The learned AGP, therefore, submits that as the executing Court had ordered the payment of compensation from the Bank Account earmarked for the Municipal Council, the total amount of compensation of Rs.27806185/- received subsequently, earmarked for payment of compensation, will have to be deposited in the above stated bank account so as to set right the accounting of the money. Hence, the application was moved on 13.3.2018 praying for a specific direction from the executing Court to permit the petitioner to park the said amount in the Court so that the Court could then transmit the amount to the above stated Bank Account. This would set right the accounting of money, lest there was a possibility of an audit objection.

5. I find that the petitioner is putting forth an innocuous prayer of following a particular procedure so as to set right the accounting of money. The petitioner is not permitted to utilise amounts earmarked for one purpose in the account maintained in any Bank, for some other purpose. I find that a peculiar situation has arisen since the executing Court had directed the adjustment of payment of compensation by drawing the said amounts from a Bank Account earmarked for the Municipal Council and that money was paid as compensation. It is, therefore, a matter of adjustment in this backdrop.

6. By the impugned order, though it is not specifically so stated, the trial Court has virtually permitted the petitioner to directly deposit the said amount in the above stated bank account so that the accounting of monies would be complete. I do not find any impediment for the petitioner to deposit the said amount in the above stated bank account considering the peculiar facts of these cases. The petitioner can address a communication to the concerned authorities by way of an intimation, including the Bank and by annexing a copy of the impugned order dated 13.3.2018, as well as this order, the said amount could be deposited with the said Bank.

7. In view of the above, these petitions are disposed off and the petitioner is permitted to address a communication to all such authorities, including the Bank, as may be required and deposit the said amount in the above stated bank account by placing a copy of the order of the executing Court dated 13.3.2018 and this order, on record.

(RAVINDRA V. GHUGE, J.)

...

akl/d

Ajay
Kishanrao
Losarwar

Digitally
signed by Ajay
Kishanrao
Losarwar
Date:
2018.08.21
11:11:54
+0530