IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8990 OF 2016

1. Vijay Sonaji Garbe
2. Snjay Shranik Garbe
3. Rambahu Sonaji Garbe
4. Rama Bajirao Thorat
5. Prayagbai Gulabrao Thorat
6. Kamal Rakhmaji Thorat
7. Panchfula Rakhmaji Thorat
8. Sushila Sudam Gadhve
9. Sundarabai Lalsingh Rathod
10. Madan Sanatan Adhe
11. Vithal Sahebrao Thorat
12. Dinkar Laxman Thorat
13. Nagnath Dadarao Gore
14. Laxman Balabhau Thorat
15. Dnyanoba Balabhau Thorat
16. Abdul Rahim Kadar
17. BansiKisan Thorat
18. Dattatraya Trimbak Thorat
19. Chandrakala Dattatraya Thorat
20. Bansi Kisan Thorat

21. Appasaheb Kisan Korade
(Died through LRs)

1. Ramesh Appasaheb Korade

All major, occ. agriculture
r/o Village Hasturtanda
Tq. Partur, Dist. Jalna Petitioners

Versus

1. State of Maharashtra
through District Collector,
Jalna

2. Deputy Collector, M.I.W. (SLAO)
Jalna, Collector Office,
Jalna

3. Income Tax Officer (T.D.S.-1)
"Jeevan Suman" LIC building
2nd floor, N5 Cidco,
Aurangabad Respondents

Ms. Kavita Shedge, advocate holding for Mr. D.M. kakade, advocate for petitioner.
Mr. S.M. Ganachari, A.G.P. for respondents 1 and 2.
Mr. Alok Sharma, advocate for respondent no. 3.

CORAM : R.M.BORDE &
A.M. DHAVALE, JJ.
DATE : 25th JUNE, 2018

JUDGMENT : (Per R.M. Borde, J.)

1. Heard.

2. Rule. Rule made returnable forthwith.

3. Heard finally at admission stage with the consent of learned counsel for the respective parties.

4. Petitioners are objecting to the action of the respondent-Special Land Acquisition Officer thereby deducting the amount to the extent of 10% of the total amount of compensation (towards TDS) payable to the petitioners under the award passed by the Land Acquisition Officer on 6th March, 2010.

5. It is the contention of the petitioners that whatever the amount the petitioners are entitled to receive under the award is towards the balance amount of compensation and the said amount does not cover component of interest. It does appear that the petitioners were initially paid advance amount of compensation while taking over possession under the award declared, by deducting 10% amount towards TDS.

6. We have perused the E-statement of award annexed to the petition and it does appear that the petitioners/claimants are not in receipt of any amount towards the interest on the amount of compensation. Since the petitioners are not in receipt of any amount towards interest, there does not arise any liability to pay income-tax on said amount. In such circumstances it was unnecessary for the Special Land Acquisition Officer to deduct 10% of the amount towards TDS.

7. Admittedly, there does not arise any liability towards payment of income-tax by the petitioners/claimants since they have not claimed any amount towards interest. In these

circumstances, the contention of the petitioners that they are not liable to pay anything to the respondent no. 2 and deduction of amount to the extent of 10% towards TDS by the Special Land acquisition Officer, is an illegality, deserves to be accepted.

6. In the circumstances, writ petition is allowed. If the amount deducted by Special Land Acquisition Officer, Jalna, is transmitted to the Income Tax department, the State Government shall ensure payment of the amount to the petitioners directly and shall recall the amount that has been transmitted to the Income Tax department, as expeditiously as possible, preferably within a period of four months from today. If the amount deposited by the State Government is not transmitted to the Income Tax department, the same shall be refunded directly to the petitioners within the period as specified above.

7. Rule is made absolute accordingly. No orders as to costs.

A.M. DHAVALE
JUDGE

R.M.BORDE
JUDGE

dyb