

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12407 OF 2018
(The Executive Engineer (Irrigation Department) Vs. Dharmaraj
Ramchandra Patil and another)

WITH WRIT PETITION NO.12408 OF 2018
WITH WRIT PETITION NO.12409 OF 2018
WITH WRIT PETITION NO.12410 OF 2018
WITH WRIT PETITION NO.12411 OF 2018
WITH WRIT PETITION NO.12412 OF 2018
WITH WRIT PETITION NO.12413 OF 2018
WITH WRIT PETITION NO.12414 OF 2018
WITH WRIT PETITION NO.12415 OF 2018
WITH WRIT PETITION NO.12416 OF 2018
WITH WRIT PETITION NO.12417 OF 2018
WITH WRIT PETITION NO.12418 OF 2018
WITH WRIT PETITION NO.12419 OF 2018
WITH WRIT PETITION NO.12420 OF 2018
WITH WRIT PETITION NO.12421 OF 2018
WITH WRIT PETITION NO.12422 OF 2018
WITH WRIT PETITION NO.12427 OF 2018
WITH WRIT PETITION NO.12428 OF 2018
WITH WRIT PETITION NO.12429 OF 2018
WITH WRIT PETITION NO.12430 OF 2018
WITH WRIT PETITION NO.12431 OF 2018
WITH WRIT PETITION NO.12432 OF 2018

Mr.M.S.Sonawane, Advocate for the petitioner.
Mr.S.R.Yadav, AGP for the respondent/State.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 02/11/2018

PER COURT :

1. The petitioner/Department, who is the implementing authority, is aggrieved by the order dated 17/09/2018 passed by the Executing Court and the subsequent order dated 09/10/2018, both passed in

RD No.583/2016.

2. All these petitions are identical and the same petitioner / Department is aggrieved by identical orders passed in identical execution proceedings filed by respondent No.1 in each of these matters.

3. In short, the decree holders are those land owners whose lands were acquired for a public project meant for construction of a percolation tank, in between 1990 to 1994. These land owners accepted the amounts under the awards by lodging their protest and they moved the LAR Court for enhancement of compensation u/s 18 of the Land Acquisition Act, 1894. In all these cases, the LAR Court delivered its award in 2013 granting enhanced compensation. Since the amounts were not paid for about 3 years, these land owners moved execution proceedings in 2016, which is practically after about 22 to 26 years of having lost their lands. Finally, by the order dated 17/09/2018, the Executing Court froze the bank account of the petitioner / establishment by the impugned orders to the extent of the amounts which are to be paid to the said beneficiaries. Approximately, an amount of Rs. 3,40,00,000/- is to be disturbed to these 22 beneficiaries.

4. The grievance of the petitioner/establishment is that the payment of compensation is to be made by the State Government. Time and again, the petitioner has made representations and reminded the Government to release funds, but in vain. As a consequence, since the petitioner is the implementing authority, the decree holders are seeking execution against the petitioner/establishment. Innumerable difficulties are cited by the petitioner pursuant to the freezing of the account.

5. The learned AGP appearing on behalf of the Special Land Acquisition Officer/respondent No.2 submits that the petitioner will have to make a persuasion for the release of the funds as the State Government is also facing a financial crunch. Merely sending representations may not serve the purpose.

6. Considering the above, I do not find it appropriate to keep these petitions pending by issuing notices to the respondents out of which respondent No.1 are the landless beneficiaries whose lands have been acquired about 24 to 28 years ago. Further time would be consumed in this Court and such respondents would be subjected to further expenditure of litigating in this Court.

7. In any case, considering the fact situation as above, I am not inclined to direct de-freezing of the account since it would cause greater injustice to the beneficiaries and would result in travesty of justice. Instead, the petitioner could seriously pursue this matter with the State Government for grant of funds on urgent basis and deposit the amounts before the Trial Court for which they can move a separate application giving a specific time schedule for depositing the money or for part-payment of money from the said frozen accounts, subject to the satisfaction of the beneficiaries and the Executing Court being convinced.

8. In view of the above, these petitions are disposed of. If the petitioners have a specific scheme to be placed before the Executing Court for timely payments of installments, they would be at liberty to move such an application which the Executing Court would consider after hearing the beneficiaries. In short, the petitioner would have to come forward with a specific time schedule to make the payments of the dues of the decree holders.

(Ravindra V.Ghuge, J.)