

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 1434 OF 2017

Sou. Rajashree A. Patil and Another ..Petitioners

Vs.

The State of Maharashtra and Others ..Respondents

Mr. Prashant Bhavake, for the Petitioners.

Mrs. P. N. Diwan, AGP, for Respondent Nos.1 to 3.

Mr. Nitin P. Deshpande, for Respondent No.4.

CORAM:-K. K. TATED & B. P. COLABAWALLA,JJ.

DATE :- APRIL 12, 2018.

P. C.:

Heard. By this Petition under Article 226 of the Constitution of India, the Petitioners are seeking a direction against the Respondents to pay amount of compensation to respective Petitioners as awarded vide Award dated dated 17th October, 2016 and also to pay the amount of annual ground rate to the Petitioner as per Government Resolution dated 1st December, 1972, 2nd July, 1979 and 14th June, 2008 with all arrears till actual payment of compensation along with interest.

2 The learned counsel Mr. Deshpande appearing on behalf of Respondent No.4 filed affidavit in reply dated 11th April, 2018 duly affirmed by Ms. Shilpa Sagar Magdum, the Executive Engineer, Dudhganga Canal Division No.1 Kolhapur. In her affidavit she has admitted that they have already deposited a sum of Rs.17,41,18,454/- with Respondent No.3 for payment as per Award passed by the Land Acquisition Officer in respect of entire acquisition. She however, submits that they will decide the payment of the ground rent as per Government Resolutions dated 1st December, 1972 and 2nd April, 1979 and considering the judgment of this Court in the matter of **Maimune Banu Hamidali Khan and Others v/s State and Others** reported in **2001 (3) Bom.C.R. p. 529** within six months from today.

3 Paragraph 4 and 5 of the said affidavit in reply reads thus:-

“4: As regard the payment of the ground rent, I say that, as per Govt. Resolution dt.1.12.1972 and the revised Resolution dt.2.4.1979, the respondent No.4 is liable to pay ground rent to the petitioners in the manner as laid down therein. Hereto annexed and marked as EXHIBIT 'R-1' is the copy of the Govt. Resolution 1.12.1972 and EXHIBIT 'R-2' is the copy of the Govt. Resolution dated 2.4.1979.”

5: I assure this Hon'ble Court that, attempt shall be made to pay the ground rent due to the petitioners within a period of six months from today.”

4 The learned counsel appearing on behalf of the Petitioners submits that there is no dispute about the payment of compensation as per Award. The only dispute is remained about calculation of ground rent payable to the Petitioners.

5 Considering the submissions made by the learned counsel for the Petitioners and affidavit in reply filed by Respondent Nos.3 and 4 dated 11th April, 2018 in which they assured that they will calculate ground rent and make the payment within six months from today, we are satisfied that the Petition can be disposed of in the following terms:-

- a) Respondent Nos. 3 and 4 to calculate the ground rent payable to the Petitioner as per Government Resolution dated 1st December, 1972 and 2nd April, 1979 along with interest as decided by this Court in the matter of **Maimune Banu Hamidali Khan and Others v/s State and Others reported in 2001 (3) Bom.C.R. p. 529** within six months from today and make payment to the Petitioners.
- b) The Petition stands disposed of with the aforesaid directions.
- c) No order as to costs.

(**B. P. COLABAWALLA, J.)**

(**K. K. TATED, J.)**