

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3150 OF 2016

Soma K. Ghode and Others ..Petitioners

Vs.

The State of Maharashtra and Others ..Respondents

Mr. Sachin S. Punde, for the Petitioners.

Mrs. Madhubala Kajale, “B” Panel Counsel, for Respondent Nos.1,2.

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

DATE :- AUGUST 1, 2018.

P. C.:

By this Writ Petition under Article 226 of the Constitution of India, the Petitioners seek a direction against the Respondents, and more particularly Respondent No.2, to release the amount deposited by Respondent No.3 in the office of Respondent No.2 in furtherance of the award dated 25th June, 2009 with interest till 1st March, 2014 without insisting for furnishing of a bank guarantee. It must be mentioned here that this award dated 25th June, 2009 was passed under Section 28-A of the Land Acquisition Act, 1894.

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It has been brought to our notice that some other land

holders had preferred Land Acquisition Reference No. 283 of 1998 before the learned District Court, Pune. Being aggrieved by the order in Land Reference No. 283 of 1998, the Government has approached this Court in First Appeal No. 432 of 2006 which is pending before this Court. This First Appeal is arising in respect of the award passed in favour of the other land holders who had preferred Land Reference No. 283 of 1998.

3 Considering that the award passed under Section 18 of the Act in favour of other land holders itself is still under challenge before this Court, we find that the condition imposed by the Government for furnishing a bank guarantee before releasing the amount under the award dated 25th June, 2009 passed in favour of the Petitioner under Section 28-A, is fully justified.

4 When the matter was called out on the last occasion, we had enquired from the learned counsel for the Petitioner, whether the Petitioner was in a position to give any other solvent security so as to secure the Government before releasing the amount mentioned in the award dated 25th June, 2009. The learned counsel for the Petitioner today has stated before us that the Petitioner is not in a position to give

any other solvent security either.

5 This being the case, we do not find that the condition imposed by the Government for furnishing a bank guarantee before releasing the amounts mentioned in the award dated 25th June, 2009 suffers from any illegality or infirmity requiring any interference in our equitable, extra ordinary and discretionary jurisdiction under Article 226 of the Constitution of India.

6 In these circumstances, we find no merit in this Writ Petition. It is accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

(B. P. COLABAWALLA, J.)

(K. K. TATED, J.)