

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

WRIT PETITION NO.6930 OF 2016

Vasant s/o Baburao Maskare ... Petitioner
v/s
The State of Maharashtra and others ... Respondents

Mr Kuldeep S. Patil for Petitioner.
Mr P.G. Sawant, AGP for Respondent – State.

***CORAM : K.K. TATED AND
B.P. COLABAWALLA, JJ.***

DATE : 09 March, 2018.

P.C. :-

1. Heard learned counsel for the parties.
2. By this Petition, under Article 226 of the Constitution of India, the Petitioners are challenging the order / letter dated 6th August 2015 issued by Respondent No.3 – The Special Land Acquisition Officer No.11, Pune, District Pune, directing the Petitioners to provide the bank guarantee for withdrawal of the amount awarded under section 28-A of the Land Acquisition Act 1894.

3. The learned counsel for Petitioners submits that initially the acquiring body Maharashtra Krishna Valley Development Corporation filed First Appeal (St) No. 16825 of 2012 and preferred Civil application for condonation of delay in respect of acquitted land. He submits that Civil Application No.804 of 2014 was dismissed by this Court by order dated 29th April 2014 and also First Appeal on the same day. He submits that in spite of these facts, the Special Land Acquisition Officer, by his letter dated 6th August 2015 directed the Petitioners to provide bank guarantee for withdrawal of amount which is against the Rules and Regulations. Hence, the Respondents may be directed to allow the Petitioners to withdraw the amount of Rs.25,06,000/- with accrued interest, if any, without imposing any condition of bank guarantee.

4. The learned AGP Mr. Sawant submits that they have already filed an affidavit in reply dated 5th July 2017. He stated that at the time of issuing the letter dated 6th August 2015, the order passed by this Court in First Appeal was in the knowledge of the Special Land Acquisition Officer. Therefore, the said letter cum order dated 6th August 2015 was issued by the concerned Officer.

5. Considering the submission made by the learned counsel for the Petitioners, as the First Appeal preferred by the acquiring body stands dismissed, we are of the opinion that the Petitioners can withdraw the entire amount without providing any bank guarantee.

6. Hence following order :-

- “(a) Writ Petition is allowed in the above terms directing the Respondents to release the amount as per award under section 28-A of the Land Acquisition Act 1894 with interest, if any, in favour of the Petitioners without imposing any condition of providing bank guarantee.
- (b) The Respondents to release the amount as early as possible but in any case within a period of four weeks from passing of this order.
- (c) Parties to act on authenticated copy of this order.
- (d) No order as to costs.

(B.P. COLABAWALLA, J)

(K.K. TATED, J.)