

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

WRIT PETITION NO.7304 OF 2018

Prakash Bamaji Patil And Ors. .. Petitioners
V/s.
The Deputy Collector (Land Acquisition) And Ors. .. Respondents

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Ms. Deepa Punde, i/b. Sachin S. Punde, for the Petitioners.

Ms. P.N. Diwan, AGP, for the State/Respondent Nos. 1, 2 and 5.

....
**CORAM: A.A. SAYED &
S.C. GUPTE, JJ.**

DATE : 14 SEPTEMBER, 2018.

P.C.:

. Heard learned Counsel for the Petitioners.

2. The Petitioners are seeking directions against Respondent No.2 to pay the compensation as per the Award dated 10 May 2016 together with all benefits to the Petitioners.

3. An Affidavit-in-Reply has been filed on behalf of CIDCO. In para 5 of the Affidavit-in-Reply it is stated as follows :-

“5. I say that the proposals of additional compensation in terms of re-determined awards are sent by the Land Acquisition Officer, through the office of the District Collector to the City and Industrial Development Corporation Ltd., which is the Acquiring Body. I say that in the instant

case, the proposal has been received by this Respondent. I say that the said proposal will have to be scrutinized by the Accounts Department for calculation of the amount of payment and the said amount will have to be placed for administrative sanction. As soon as the said proposal receives the administrative sanction, the amount of re-determined compensation will be deposited with the Deputy Collector (Land Acquisition), Panvel. I say that the proposal is under scrutiny and the same will be completed within a period of 90 days.”

4. It is not in dispute that the case of the Petitioners would be covered by the order dated 27 August 2018 passed in Writ Petition No.6061 of 2018. Paragraphs 6 and 7 of the said order dated 27 August 2018 reads as follows :

“6. Learned Counsel for the Petitioners has placed reliance on the judgment of the Division Bench of this Court (Coram: A.S.Oka & M.S.Sonak,JJ.) in **Ananda Baburao Pawagi & ors. v/s. The State of Maharashtra & ors., 2014 (3) Mah.L.J. 886** to contend that the Petitioners would also be entitled to interest on the re-determined Award dated 8 July 2016. The Division Bench in the said case has held in paragraph 21 as follows:

“21. It is true that the statute does not provide for any time limit for payment of compensation in terms of the award made according to Sub-section (2) of Section 28A of the said Act. But in view of

applicability of Sub-section (1) of Section 31 of the said Act, it is obvious that the amount has to be offered immediately after the Award is made. Under Section 34 of the said Act, the interest is payable till the date of payment of compensation or the date of deposit of compensation.”

The Division Bench accordingly directed that interest be paid as provided under section 34 of the said Act till the date of deposit of compensation amount. The Division Bench held that even in exercise of equitable jurisdiction, this Court can always award interest by way of compensation and the Court would be guided by Section 34 of the said Act and the Petitioner would be entitled to interest under the said Section. We respectfully agree with the view of the Division Bench. The judgment of the Division Bench would clearly apply to the facts of the present case also.

7. In the present case, despite the re-determined Awards dated 08-07-2016 of the Respondent No.1-Deputy Collector (Land Acquisition), the compensation amount, as re-determined, has not been paid to the Petitioners and the Petitioners have been deprived of enjoying the said amount for more than two years. The Petitioners were legitimately and lawfully entitled to said amount immediately upon the re-determined Awards being made on 08-07-2016. The Petitioners would thus be entitled to interest @ 15% p.a. as per section 34 of the said Act on the re-determined Awards, on account of gross delay on part of Respondent No.4-

CIDCO and Respondent-State in paying the said amounts.”

5. In the circumstances, we pass the following order :-

ORDER

(i) We direct the Respondents to pay compensation to the Petitioners in terms of re-determined Awards dated 10-05-2016 together with interest as per Section 34 of the Land Acquisition Act, 1894.

(ii) The interest shall be awarded at the rate of 15% p.a., which shall be payable from the date of re-determined Awards i.e. 10-05-2016 until payment.

(iii) The aforesaid amounts shall be paid by the Respondents to the Petitioners within one month from today.

(iv) As soon as the aforesaid amount is received by the Office of Respondent No.1-Deputy Collector (Land Acquisition), an intimation of the date fixed for receipt of the amount shall be issued to the Petitioners to receive the aforesaid amount.

6. The Petition is allowed in the above terms.