

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONTEMPT PETITION NO.160 OF 2017
IN
WRIT PETITION NO. 3751 OF 2015

BHARAT DEOCHAND DHANAWAT
AND OTHERS

...PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA
AND OTHERS

...RESPONDENTS

Mr G.S. Patil, Advocate for Petitioners
Mr S.G. Sangle, AGP for Respondents-State
Mr S.G.Bhalerao, Advocate for Respondent No. 3

**CORAM : PRASANNA B. VARALE
AND
ANIL S. KILOR, JJ.**

DATE : 5th DECEMBER, 2019

PER COURT :

1. Heard Mr Patil, the learned Counsel for the petitioners on a grievance that order of this Court dated 7th March, 2016 passed in writ petition No 3751/2015 is not complied with, the present contempt petition was filed.

2. The present contempt petition was admitted by order dated 11.07.2017. As there were no proper responses filed by proper authorities by order dated 17th October, 2018, by taking a little departure, this Court permitted the petitioners to amend the petition by addition of the parties/respondents. Now, the respondents have filed their respective responses in the form of affidavit-in-reply.

3. Mr Patil, learned Counsel appearing for the petitioners vehemently submitted before this Court that by way of communication, the office of the District Collector sought for an amount of Rs. 40.37 lakhs from the acquiring body. In support of his submissions, Mr Patil invited our attention to the communication placed on record along with the affidavit-in-reply filed on behalf of respondent No. 3 dated 25.04.2017. Mr Patil then submitted that though the amount sought for was Rs.40.37 lakhs, the amount deposited with the office of the Land Acquisition Officer by the acquiring body is only Rs. 26,99,131/- and the reference to this amount finds place in the affidavit-in-reply filed on behalf of respondent No. 3 - the Principal Secretary, Water Resources Department of State of Maharashtra.

4. Mr Patil vehemently submitted that there was no reason for the acquiring body to deposit a lesser amount than the amount sought for from the office of the Collector and the acquiring body ought to have deposited an entire amount of Rs. 40.37 lakhs in the office of the Collector, and in turn, this amount is required to be disbursed in favour of the petitioners. Though the submission of Mr Patil is advanced with all the vehemens at his command, but for the reason which assigned by us in the foregoing part, we are unable to accept the submission of Mr Patil. Firstly, the order of this Court dated 7th March, 2016 is not an order recognizing an absolute right or claim of the petitioners over the amount of Rs. 40.37 lakhs, but

the order of the Division Bench is the subjective order and this is clear from the words appear in para 4 of the order and we reiterate the part of the order. The same reads thus -

4. These petitions can be disposed of by directing respondents No. 2 to 4 to take decision on the application tendered by petitioner on 16.04.2012 under section 28A of the Land Acquisition Act, after hearing the petitioners and acquiring body, as expeditiously as possible, preferably within a period of six months from the date of receipt of copy of this order. On rendering decision, if the petitioner found to be entitled for amount, the amount shall be paid to the petitioner by respondents No. 1, 3 and 4, as expeditiously as possible, preferably within a period of three months from the date of such decision and, it is accordingly directed.

5. On rendering decision, if the petitioners found to be entitled for amount, the amount shall be paid to the petitioners by respondent Nos. 1, 3 and 4 as expeditiously as possible preferably within a period of three months from the date of such decision and it is accordingly directed. On the backdrop of the catchwords referred to in the order of the Division Bench, the submission of learned Counsel Mr Bhalerao assumes an importance as it is submitted before this Court that though the Executive Engineer forwarded a communication to the Superintending Engineer making a reference to an amount to the tune of Rs.40.37 lakhs sought for from the office of the Collector, the acquiring body was certainly left with a liberty to

ascertain the entitlement of the petitioners and the Executive Engineer by communication dated 27.05.2017 informed the Executive Director of G.M.I.D.C., Aurangabad that on assessment, it is found that the petitioners are entitled to only an amount to the tune of Rs.26,99,131/- and the said amount was deposited in the office of the Collector vide cheque No.834844 dated 15th February, 2019 and this fact is referred to in the affidavit in reply filed on behalf of respondent No. 3 - the Principal Secretary. Now, if the Division Bench of this Court made it clear in its order of which contempt is alleged of that if the petitioners found to be entitled for an amount and when there is a dispute raised on an issue of entitlement of petitioners in the present contempt petition, we cannot permit ourselves to expand the scope of the contempt petition and thrust power on ourselves to decide this dispute as if we are called upon to decide the dispute in an independent proceeding. This would be certainly exceeding our powers in dealing with the contempt petition. As the order of the Division Bench is complied with by depositing the amount of Rs. 26,99,131/- in the office of the Collector, Aurangabad, at the most, we may grant liberty to the petitioners to seek withdrawal of the amount by taking appropriate steps. The learned Counsel submits that amount was deposited in the office of the Collector. The learned Counsel Mr Bhalerao, submits on instructions that an amount of Rs.26,99,131/- is already withdrawn by the petitioners. This fact of withdrawal of the amount is admitted by the learned Counsel appearing for the petitioners. As such, nothing

survives now in the present contempt petition. In case, the petitioners are having any grievance in respect to the amount received by them, they are at liberty to avail appropriate remedies as available under the law by approaching the competent forum including any judicial forum for redressal of their grievance.

6. With this liberty, the contempt petition is disposed of.

[ANIL S. KILOR]
JUDGE

[PRASANNA B. VARALE]
JUDGE

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