

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6407 OF 2018

THE STATE OF MAHARASHTRA
VERSUS
JAGANNATH KASHINATH MURKUTE AND OTHERS

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AGP for Petitioner : Shri Yadav (Lonikar) S.R.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 24, 2019
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PER COURT :-

1. The learned AGP points out that in identical set of facts, this Court has passed orders, one of them being the order dated 17.10.2018, passed in Writ Petition Nos.11626 to 11636 of 2018.

2. The petitioner is aggrieved by the orders dated 6.1.2018 and 20.1.2018 passed by the learned 5th Joint Civil Judge, Senior Division, Ahmednagar.

3. It is informed that in execution proceedings with regard to grant of compensation for acquisition of lands, the executing Court had directed debiting of the compensation amount from the account of the District Collector, bearing No.4550200000673 with Manik Chowk, Tulshi-vihar Building, Branch of the Bank of Baroda at Ahmednagar. The said amount was in the account, which was earmarked for the

Municipal Council. Yet the Executing Court directed deduction of the compensation amount merely because it noticed that a large sum of money is maintained in the account

4. Further grievance is that the petitioner received the compensation amount, specifically granted by the State for disbursement of the compensation. It had sought liberty from the Executing Court to deposit the amount in the Executing Court, in the earlier cases decided by the Court on 20/08/2018. The Executing Court declined to entertain the application in the execution proceedings which have been disposed of, stating that the petitioner should deposit the amount directly in the Bank.

5. The learned AGP submits that in a group of few matters, in Writ Petition Nos.9513/2018 till 9541/2018, in identical set of facts, this Court has passed an order on 20/08/2018 and has permitted the State authorities to directly deposit the compensation money in the account of the Collector maintained in the Bank of Baroda for the Municipal Council, from where the Executing Court had directed to debit the money.

6. Learned AGP submits that normally he would not have raised a grievance about what has already happened. However, he submits that

this is happening frequently. The Collector and the State are precluded from utilizing the funds reserved under a particular head in the Bank account, for any other purpose. Merely because large sums are parked in some Bank accounts, would not vest the jurisdiction in the Executing Court to direct deduction from that account for making payment of compensation which would fall under a different account.

7. Considering the peculiar facts as above and though this Court had passed an order on 20/08/2018, as noted above, I find it appropriate to dispose of these petitions and permit this petitioner to move applications in Regular Darkhast Nos. 180 of 2009, whether disposed of or not, for depositing the compensation amount in the Executing Court. The Executing Court would then pass an appropriate order on the said application.

8. Needless to state, the Executing Court will permit the petitioner to deposit the amount in the Executing Court and then pass an order directing the transmission of that amount from the Court to the above stated account in Bank of Baroda.

9. I deem it appropriate to bring it to the notice of the Executing Court that normally orders are not passed for directing the State Authorities to withdraw amounts from a particular head maintained in a

Bank Account for the purpose of utilizing the fund for a different head, viz. the payment of compensation under the Land Acquisition Act.

10. With the above directions, these writ petitions are disposed of."

(RAVINDRA V. GHUGE, J.)

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