IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13136 OF 2018
(The Union of India, through General Manager and others Vs. State and others)

WITH WP/13137/2018 WITH WP/13138/2018 WITH WP/13139/2018 WITH WP/13140/2018 WITH WP/13141/2018 WITH WP/13142/2018 WITH WP/13143/2018 WITH WP/13144/2018 WITH WP/13145/2018 WITH WP/13146/2018 WITH WP/13147/2018 WITH WP/13148/2018 WITH WP/13149/2018 WITH WP/13150/2018 WITH WP/13151/2018 WITH WP/13152/2018 WITH WP/13154/2018 WITH WP/13155/2018 WITH WP/13156/2018 WITH WP/13157/2018 WITH WP/13158/2018 WITH WP/13159/2018 WITH WP/13160/2018 WITH WP/13161/2018 WITH WP/13162/2018 WITH WP/13163/2018 WITH WP/13164/2018 WITH WP/13165/2018 WITH WP/13166/2018 WITH WP/13167/2018 WITH WP/13168/2018 WITH WP/13169/2018 WITH WP/13170/2018 WITH WP/13171/2018 WITH WP/13172/2018 WITH WP/13173/2018 WITH WP/13174/2018 WITH WP/13175/2018 WITH WP/13176/2018 WITH WP/13177/2018 WITH WP/13178/2018 WITH WP/13179/2018 WITH WP/13180/2018 WITH WP/13181/2018 WITH WP/13182/2018 WITH WP/13183/2018 WITH WP/13184/2018 WITH WP/13185/2018 WITH WP/13186/2018 WITH WP/13187/2018 WITH WP/13188/2018 WITH WP/13189/2018 WITH WP/13190/2018 WITH WP/13191/2018 WITH WP/13192/2018 WITH WP/13193/2018 WITH WP/13194/2018 WITH WP/13195/2018 WITH WP/13196/2018 WITH WP/13197/2018 WITH WP/13198/2018 WITH WP/13199/2018 WITH WP/13200/2018 WITH WP/13201/2018 WITH WP/13202/2018 WITH WP/13203/2018 WITH WP/13204/2018 WITH WP/13205/2018 WITH WP/13206/2018 WITH WP/13207/2018 WITH WP/13208/2018 WITH WP/13209/2018 WITH WP/13210/2018 WITH WP/13211/2018 WITH WP/13212/2018 WITH WP/13213/2018 WITH WP/13214/2018 WITH WP/13215/2018 WITH WP/13216/2018 WITH WP/13217/2018 WITH WP/13218/2018 WITH WP/13219/2018 WITH WP/13220/2018 WITH WP/13221/2018 WITH WP/13222/2018 WITH WP/13223/2018 WITH WP/13224/2018 WITH WP/13225/2018 WITH WP/13226/2018 WITH WP/13275/2018 WITH WP/13276/2018 WITH WP/13277/2018 WITH WP/13278/2018 WITH WP/13279/2018 WITH WP/13280/2018 WITH WP/13281/2018 WITH WP/13282/2018 WITH WP/13283/2018 WITH WP/13284/2018 WITH WP/13285/2018 WITH WP/13286/2018 WITH WP/13287/2018 WITH WP/13288/2018 WITH WP/13289/2018 WITH WP/13290/2018 WITH WP/13291/2018 WITH WP/13292/2018 WITH WP/13293/2018 WITH WP/13294/2018 WITH WP/13295/2018 WITH WP/13296/2018 WITH WP/13297/2018 WITH WP/13298/2018 WITH WP/13299/2018 WITH

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Ms.A.N.Ansari, learned Advocate for the petitioner.
Mr.N.T.Bhagat, learned AGP for the respondent/State.
Mr.D.R.Jayabhar, Ms.Gitanjali Jagtap h/f Mr.C.K.Shinde, Advocate for the respondents.
Mr.K.D.Khade, Advocate for respondent Nos. 2 to 4 in WP No.13194/2018.
Mr.N.R.Avhad, Advocate for respondent Nos. 1 to 3 and 1A to 4 (in WP Nos.13142/2018 and 13156/2018).

(CORAM : Ravindra V.Ghuge, J.)

DATE : 13/02/2019

PER COURT :

1. I have heard the learned Advocates for the respective sides and the learned AGP. The original claimants have been served by notices published in 2 newspapers namely "Marathi Dainik Sakal", Beed Edition and "Marathi Dainik Zunzar Neta", Beed Edition. Original copies of the newspapers are placed on record to indicate compliance. Learned Advocates have caused appearance on behalf of several claimants. Nevertheless, service is complete in view of the notices being published in the two largely circulated newspapers in Beed District.

2. Learned Advocate for the petitioners, who are the acquiring body, has strenuously contended that the impugned Lok Adalat awards are delivered on the basis of compromise terms to which the Central Railway Administration was not a party. Neither has the said administration signed on the terms of compromise, nor were they present in the Lok Adalat to give a formal consent to the compromise terms. It is vehemently submitted that these compromise terms cannot be arrived at without the consent of the litigating sides and surely not without the consent of the acquiring body. It is further submitted that one of the member of the Lok

Adalat Panel was a serving Judge and the fact that the petitioners had not signed on the compromise terms, should not have been ignored by him.

3. Learned Advocate for the Central Railway Administration draws my attention to the re-joinder filed by the administration on 30/01/2019. It is pointed out that the Railway Administration has not given a sanction for participating in Lok Adalat matters. Not a single Officer of the Administration is empowered to sign on behalf of the Department for accepting the terms of compromise. In fact, there is no authorization even to negotiate on the terms of compromise, much less, accept such terms. The Ministry of Railways, New Delhi have not conveyed any decision enabling the Zonal Railways Authorities to participate in the land acquisition matters.

4. Learned Advocate for the Central Railways concedes and the learned AGP points out that the representatives of the Acquiring Body have attended the meetings at Beed since the LAR proceedings pertain to District Beed. The local authorities were informed about the special meetings and in order to maintain the respect of the Hon'ble District Judge, that the Deputy Chief Engineer (C), Beed

used to depute Officers to attend the meetings. The learned AGP indicates that such Officers used to participate in the meetings and used to make a statement that though they find the quantum of compensation to be fair, they have no powers to record their consent. He points out that in identical set of facts pertaining to the same Central Railways Administration, this Court has delivered a detailed order on 30/01/2019 in WP No.6004/2018 and 189 connected matters.

5. The learned Advocates for the claimants submit that they are agriculturists who have lost their lands in the project of the Central Railways. They were striving for enhanced compensation in their LAR proceedings. The Central Railways was practically playing hide and seek by deputing Officers to attend the meetings, who had no authority to participate in the negotiation process. These farmers have been unnecessarily tired out.

6. I find that, on the one hand, the learned Advocate for the Central Railways is right in contending that Regulation 30(2) of the National Legal Services Authority (Lok Adalat) Regulations, 2009 mandates that the members of the Lok Adalat would not pressurize any party to agree to the terms of the settlement. However, it cannot

be ignored that the Central Railways Administration, on the other hand, cannot refuse to participate in such Lok Adalat proceedings keeping in view that it is on account of Central Legislation that the Lok Adalats are functioning under the National Legal Services Authority Act.

7. An identical situation was dealt with by this Court in the matters in which the order dated 30/01/2019 was passed. It would be apposite to reproduce the observations of this Court in paragraph No.13 to 23, which read as under :-

"13. Having recorded the submissions of the learned Advocates as above, two issues crop up for decision in these cases. Firstly, that whether the conduct of the petitioners in deputing unauthorized persons to attend the meetings and that too different persons on different dates of the meeting could be countenanced. Secondly, whether a compromise in the Lok Adalat, without the actual consent of the petitioners, could be foisted upon them by applying the doctrine of acquiescence or on an assumption of tacit consent.

14. I am in complete agreement with the grievance voiced by the learned Advocates for the claimants that when a special committee was formed under the chairmanship of a District Collector and by involving various revenue authorities including the District Government Pleader, the petitioners could not have casually looked at such meetings and could not have treated such meetings as being a

formality. It is obvious that the petitioners have not applied their minds to such cases keeping in view that such a Committee was formed to achieve a laudable object of an early resolution of such disputes by consent which would, in turn, achieve the goal of expeditious disposal and payment of compensation and equally important, saving the interest component which the acquiring body would be paying from the tax payers' money.

15. Learned Advocate for the petitioners has attempted to justify their conduct by stating that as they were not attending the meetings earlier, the learned Principal District Judge summoned the Chief Engineer of the Indian Railways. He met the learned Principal District Judge alongwith certain Officers and the Advocate representing the Railways and informed that the Railways does not have any instructions to settle the matter.

16. I find this explanation to be not only fallacious, but aimed at showing their reluctance and apathy in settling the matters when the object to be achieved was that the Indian Railways would have got an early disposal of all its cases and would have also saved the tax payers' money since the component of interest would naturally be curtailed if such matters are disposed off in lesser durations. I find it intriguing as to whether the Indian Railways does not have the wisdom to understand that this object of holding meetings to settle the issues would in fact assist the acquiring body in saving the tax payers' money.

17. Considering the above, I deem it appropriate to impose costs on

the petitioners.

18. In so far as the issue of a compromise without the consent of the acquiring body is concerned, it would be no compromise in the eyes of Law in view of Regulation 13 which would prohibit any compromise arrived at either by exerting pressure or by proceeding to accept the terms of compromise without the acquiring body signing on such terms of compromise. The impugned compromise award is therefore unsustainable.

19. This Court had passed an order on 02/07/2018 directing the petitioner to deposit 50% of the enhanced amount alongwith all accruals within a period of 8 (eight) weeks. It is informed that the petitioner has still not deposited the said amount in this Court and has taken advantage of the conditional ad-interim relief granted. Nevertheless, I do not find this to be a stage at which this issue could be taken any further since I find that the interest of these agriculturists is of paramount importance as they have lost their lands and are still litigating for enhanced compensation.

20. In view of the above, these petitions are partly allowed. The impugned compromise awards are quashed and set aside and all the concerned LAR proceedings shall stand remitted to the concerned LAR courts with the following directions :-

[a] As the learned Advocate for the petitioners submits on instructions that within 6 to 8 weeks, the amounts as directed by this Court would be deposited before the LAR Courts, the petitioners shall therefore deposit the said amounts (upto

31/12/2018) in the LAR Courts on or before 30/03/2019 and there shall be no request for extension of time.

[b] If the said amounts are not deposited, the defence of the acquiring body in the LAR proceedings shall be struck off.

[c] If the amounts are deposited, the LAR Court would permit each of the claimants to withdraw their respective amounts as per the statement pertaining to their respective claims available before the Court.

[d] Each of the claimants would enter an affidavit undertaking that if excess amounts are received, pursuant to the decision in the proceedings, the said excess amounts would be re-deposited in the LAR Court within 8 weeks from the decision, without interest. After 8 weeks, the said amounts will accrue interest @ 4% per annum till re-deposited. Of course, this is subject to further litigation in such cases.

[e] The petitioner/Indian Railways shall, in addition to the above, deposit an amount of Rs.10,000/- per claimant as costs for its conduct as recorded in this order, on or before 30/03/2019. Failure to deposit would invite the same order as set out above in clause (b).

[f] The LAR Court would now accord highest preference to these pending cases for the reason that these claimants need to receive their compensation amounts at the earliest and the growing interest which is to be paid from the tax payers' money will have to be curtailed.

[g] In the event these matters are not settled in Lok-Adalat with the ground work to be done by the concerned Committee constituted under the GR, the LAR Courts shall decide the said

proceedings as expeditiously as possible and in any case on or before 31/07/2019. Adjournments on unreasonable grounds sought by the parties shall be refused.

21. Before parting with these matters, I find it appropriate to make certain observations which would wake up the Indian Railway Administration. The National Legal Services Authorities Act and the National Legal Services Authority (Lok Adalat) Regulations, 2009 are Central Enactment and the rules have been brought into force in exercise of the powers conferred by Section 29 of the Legal Services Authorities Act, 1987. It is unconscionable for the Indian Railways Administration to state, on the one hand and rightly that it cannot be pressurized to accept or to settle cases, but on the other hand, to practically refuse to participate in the meetings of the Committee which is formed by the Maharashtra Government Resolution dated 13/10/2011. It cannot be countenanced that the Indian Railway Administration should be permitted to take a stand that it has no instructions to participate in Lok Adalats and allow the interest component to grow by passage of time on account of the non-resolution of such claims and pay such amounts from the State exchequer. Though the learned Advocate for the Acquiring body has made a valiant attempt to justify that the administration had no instructions to co-operate in the Lok-Adalat, I would find fault with the conduct of the railway administration in taking such a stand.

22. A copy of this order shall therefore be placed by the learned Registrar (Judicial) of this Court before the Cabinet Secretary (Union of India) Vinod Kumar Yadav, Chairman, Railway Board (Ministry of

Railways) and also before the Chief Secretary of the State of Maharashtra so as to initiate steps to expedite the participation of the Indian Railway Administration in the Lok-Adalat.

23. I was inclined to direct that the costs amount should be recovered from the salary of such a responsible officer of the Indian Railway Administration who was authorized and capable of taking a decision in this matter. However, the learned Advocate for the petitioners urges that this order may not be passed and that the Indian Railway Administration would deal with the issue of participation in the Lok Adalats at the highest level and expeditiously. As such, it is expected that the Indian Railways Administration shall take a decision, with utmost promptitude and preferably within a period of 2 months from today, to participate in the Lok Adalat matters especially in relation to land acquisition cases."

8. I find that the above reproduced observations are squarely applicable to the Ministry of Indian Railways in these matters, as well. Consequentially, I deem it appropriate to entertain these petitions, but at the same time issue the same directions as were issued in the identical group of matters involving the same Indian Railways Administration.

9. In view of the above, these petitions are partly allowed. The impugned compromise awards are quashed and set aside and all the

concerned LAR proceedings shall stand remitted to the concerned LAR courts with the following directions :-

[a] The petitioners are directed to deposit 50% of the amounts mentioned in the impugned Lok Adalat Awards before the LAR Courts, calculating the same up to 31/12/2018, on or before 30/04/2019 and there shall be no request for extension of time.

[b] If the said amounts are not deposited, the defence of the acquiring body in the LAR proceedings shall be struck off.

[c] If the amounts are deposited, the LAR Court would permit each of the claimants to withdraw their respective share amounts as per the statement pertaining to their respective claims available before the Court.

[d] Each of the claimants would enter an affidavit undertaking that if excess amounts are received, pursuant to the final decision in the proceedings, the said excess amounts would be re-deposited in the LAR Court within 8 weeks from the decision, without interest. After 8 weeks, the said amounts will accrue interest @ 4% per annum till re-deposited. Of course, this is subject to further litigation in such cases.

[e] The petitioner/Indian Railways shall, in addition to the

above, deposit an amount of Rs.10,000/- per claimant as costs for its conduct as recorded in this order, on or before 30/04/2019. Failure to deposit would invite the same order as set out above in clause (b).

[f] The LAR Court would now accord highest priority ton these pending cases for the reason that these claimants need to receive their compensation amounts at the earliest and the growing interest which is to be paid from the tax payers' money will have to be curtailed.

[g] In the event these matters are not settled in Lok-Adalat with the ground work to be done by the concerned Committee constituted under the GR, the LAR Courts shall decide the said proceedings as expeditiously as possible and in any case on or before 31/07/2019. Adjournments on unreasonable grounds sought by the parties shall be refused.

9. Before parting with these matters, I find it appropriate to make certain observations which would wake up the Indian Railway Administration. The National Legal Services Authorities Act and the National Legal Services Authority (Lok Adalat) Regulations, 2009 are Central Enactment and the rules have been brought into force in exercise of the powers conferred by Section 29 of the Legal Services

Authorities Act, 1987. It is unconscionable for the Indian Railways Administration to state, on the one hand and rightly that it cannot be pressurized to accept or to settle cases, but on the other hand, to practically refuse to participate in the meetings of the Committee which is formed by the Maharashtra Government Resolution dated 13/10/2011. It cannot be countenanced that the Indian Railway Administration should be permitted to take a stand that it has no instructions to participate in Lok Adalats and allow the interest component to grow by passage of time on account of the non-resolution of such claims and pay such amounts from the State exchequer. Though the learned Advocate for the Acquiring body has made a valiant attempt to justify that the administration had no instructions to co-operate in the Lok-Adalat, I would find fault with the conduct of the railway administration in taking such a stand.

10. A copy of this order shall therefore be placed by the learned Registrar (Judicial) of this Court before the Cabinet Secretary (Union of India) Vinod Kumar Yadav, Chairman, Railway Board (Ministry of Railways) and also before the Chief Secretary of the State of Maharashtra so as to initiate steps to expedite the participation of the Indian Railway Administration in the Lok-Adalat.

11. I was inclined to direct that the costs amount should be recovered from the salary of such a responsible officer of the Indian Railway Administration who was authorized and capable of taking a decision in this matter. However, the learned Advocate for the petitioners urges that this order may not be passed and that the Indian Railway Administration would deal with the issue of participation in the Lok Adalats at the highest level and expeditiously. As such, it is expected that the Indian Railways Administration shall take a decision, with utmost promptitude and preferably within a period of 2 months from today, to participate in the Lok Adalat matters especially in relation to land acquisition cases.

(Ravindra V.Ghuge, J.)