

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CONTEMPT PETITION NO. 375 OF 2011
IN
WRIT PETITION NO. 11168 OF 2010

Durgabai W/o. Parasram Karhale & Ors. Petitioners

Versus

The State of Maharashtra & Ors.Respondents

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Appearance:-

Mr. A. M. Hajare, Advocate for the petitioners

Mr. S. P. Sonpawale, AGP for respondent/State

Mr. Umakant K. Patil, Advocate for respondents No. 7 & 8

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

DATE : 06TH NOVEMBER, 2019

PER COURT:-

1. Heard Mr. A. M. Hajare, learned counsel for the petitioners, Mr. S. P. Sonpawale, learned Addl. Government Pleader for respondent/State and Mr. Umakant K. Patil, learned advocate for respondents No. 7 & 8.

2. The present petition has been filed raising the grievance of non-compliance of the order dtd. 19.04.2011 passed by this Court in Writ Petition No. 11168 of 2018 and connected matters. On

17.10.2019, it was submitted by Mr. Umakant Patil, the learned counsel appearing for respondents No. 7 & 8 i.e. Mr. Rajendra Pandurang Kale, Executive Engineer, Minor Irrigation Division No. 1, Aurangabad and Mr. Baburao N. Kandarpale, Executive Director, Godavari Marathwada Irrigation Development Corporation, Aurangabad, that the order of this Court is duly complied with and the respondents be directed to file their affidavit-in-reply to that effect. Accordingly, the affidavit-in-reply is filed. Perusal of the affidavit-in-reply dtd. 17.10.2019 filed on behalf of respondent No. 7 i.e. Rajendra Pandurang Kale, shows that, initially an amount of Rs.41,82,867/- was deposited in this Court on 05.03.2013. There is also a reference in para 11 and 12 of this affidavit about the other amounts being deposited, which read thus:

11. I say and submit that, I have deposited amount of Rs. 41,82,867/- in this Hon'ble Court on 05.03.2013. I further say and submit that, I have also deposited amount of Rs. 9,62,035/- on 27.11.2011 to Deputy Collector (Land Acquisition) Jaikwadi Project, Aurangabad. Thereafter I have also deposited 2,92,546/- on 12.3.2012 and transferred to Deputy Collector (Land Acquisition), Jaikwadi Project, Aurangabad. As such total amount of Rs. 41,82,867/- + Rs. 9,62,035/- + Rs. 2,92,546/- comes to Rs. 54,37,448/-, as per chart submitted by petitioner in Contempt Petition No. 375/2011 at page No. 80 & 81. This fact is also intimated to the Registrar, High Court of Judicature of Bombay, Bench at Aurangabad, by letter addressed to Superintending Engineer, Irrigation Department, Aurangabad.

12. In view of the above position, the demand of the petitioner to pay additional amount of Rs. 54,37,448/- at page No. 80 & 81 is already satisfied by the Department and as such order in Contempt Petition No. 375/2011 is already complied by respondent No. 7 and 8, passed by the Single Bench of this Hon'ble Court dated 6.2.2012.

3. Thus, total amount to the tune of Rs. 54,37,448/- is deposited and it is the submission of the learned counsel for respondents No. 7 and 8 that, this amount satisfies the claim of the petitioners even considering the chart submitted by the petitioners in the present Contempt Petition at Exh. 'P-2' (Pg. 80 & 81 to the petition, respectively).

4. Mr. Patil, the learned advocate for respondents No. 7 & 8 also invited our attention to the certain more details such as, communication forwarded to the Superintending Engineer, Irrigation Circle, Aurangabad dt. 12.04.2012 and the orders passed by the Hon'ble the Apex Court in Spl. Leave Petition preferred by respondent No. 7 – Mr. Rajendra Pandurang Kale. It is not in dispute that, the Spl. Leave Petition filed by respondent No. 7 before the Hon'ble Supreme Court is dismissed vide order dt.22.01.2015.

5. By order dt. 09.04.2011, the Division Bench of this Court was pleased to direct the respondents i.e. the Acquiring Body and the Land Acquisition Officer to make payment of the land within the stipulated period. True it is there is some delay in completing the exercise as directed by this Court but then the submission of Mr.Patil, learned counsel for respondents No. 7 and 8 that, this delay was not

intentional but *bona fide* one in view of the proceedings pending in this court as well as before the Hon'ble Apex Court and due to certain administrative difficulties. The justification/explanation provided by Mr. Patil, the learned counsel for respondents No. 7 and 8, is accepted by us.

6. It can now safely be said that, the entire amount claimed by the petitioners herein in chart at Exh. 'P-2' is partly deposited in the office of the Special Land Acquisition Officer and partly deposited in the Registry of this Court. As such, we direct the Registry of this Court to transfer the amount which is deposited in this Court to the office of Special Land Acquisition Officer, Jaikwadi Project, Aurangabad, within one week from today. The petitioners also admit that, part of the amount is received to them. As such, in our opinion, the interest of justice can be served if these petitioners are permitted to approach the office of the Special Land Acquisition Officer to seek withdrawal of the amount by presenting application to the SLAO and are accordingly permitted. The petitioners to submit such applications within one week from today. On receiving such application, the Special Land Acquisition Officer to disburse the amount to the petitioners on verification of the identity of each of the petitioners. The petitioners may annex the copy of the tabular

statement at Exh. 'P-2' (Pg. 80 and 81) along with their application to be submitted for withdrawal of the amount for ready reference of the SLAO.

7. The Contempt Petition is accordingly disposed off.

8. Needless to state, that the presence of respondent No. 7 – Mr. Rajendra Pandurang Kale, Executive Engineer, is now dispensed with.

[ANIL S. KILOR]
JUDGE

[PRASANNA B. VARALE]
JUDGE

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