

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7333 OF 2019

Dattu Alu Shitkande & Ors.Petitioners
V/S
The Deputy Collector (Land Acquisition) & Ors.Respondents

...
Ms. Deepa Punde i/b Mr. Sachin S. Punde for the Petitioners.
Ms. P.N. Diwan, AGP for Respondent Nos.1, 2 and 5/State.
Mr. S.S. Diwan i/b Mr. A.M. Kulkarni for Respondent Nos.3 and 4/CIDCO.
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**CORAM : A.A. SAYED &
PRAKASH D. NAIK, JJ.**
DATE : 31 JULY 2019.

ORDER:

1 Invoking Articles 226 & 227 of the Constitution, this Petition is filed by the Petitioners, seeking directions against Respondents to forthwith pay the re-determined amount of compensation as per the Award dated 30 June 2016 (Exhibit 'A' to the Petition), together with all benefits to the Petitioners.

2. The Petitioners are owners of agricultural lands situated at Village Karanjade, Taluka Panvel, District Raigad, more particularly described in paragraph 2 of the Petition (hereinafter referred to as "the said lands"). The said lands came to be acquired for public purpose of Navi Mumbai Project

under the Land Acquisition Act, 1894 (hereinafter referred to as "the said Act"). The preliminary Notification was published under section 4 of the said Act which culminated into Award dated 22 September 1986 under Section 11 of the said Act. According to the Petitioners, though the amount of compensation awarded was very meager, they did not prefer Land Acquisition Reference on account of their illiteracy and financial difficulties. In the Land Acquisition Reference No.201 of 1989 initiated at the instance of adjoining landowners covered under the same Notification, the Civil Judge, Sr.Division, Raigad at Alibag by judgment and order dated 3 May 1990 awarded enhanced compensation.

3. On 21 September 1990 the Petitioners preferred Applications under section 28-A of the said Act for re-determination of the amount of compensation awarded under Awards dated 10 September 1985 and 20 May 1985. On 8 July 2016 after conducting an inquiry the Respondent No.1-Deputy Collector (Land Acquisition) re-determined the amount of compensation under Section 28-A(2) of the said Act, on the basis of the judgment and order dated 3 May 1990 passed in Land Acquisition Reference No.201 of 1989. On 11 July 2016, the Respondent No.1-Deputy Collector (Land Acquisition) issued notices under section 12(2) of the said Act informing the Petitioners that the amount of compensation of

Rs.24,22,032/- will be disbursed once it is received from Respondent No.4-CIDCO. The grievance of the Petitioners is that till date compensation as re-determined is not paid to them.

4. Learned Counsel appearing for the Respondent No.4-CIDCO on instruction states that the amount of compensation recorded in the notice issued under section 12(2) of the said Act would be deposited within a period of four months, if the same has not been deposited, with the Land Acquisition Officer and the said amount would be disbursed to the Petitioner through the Land Acquisition Officer. The statement is accepted.

5. It is thus an admitted position that the amount as re-determined is payable to the Petitioners and the Respondent No.4-CIDCO has merely sought time of 4 months for disbursing the amount. It is not in dispute that neither the order dated 3 May 1990 of the Civil Judge Senior Division, Raigad in Land Acquisition Reference No.201 of 1989 awarding enhanced compensation u/s 18 of the said Act, nor the re-determined Award dated 30 June 2016 of the Respondent No.1-Deputy Collector (Land Acquisition) have been challenged by the Respondents.

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 30 June 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 30 June 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 30 June 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. Hence, we pass the following order:

ORDER

(i) We direct the Respondents to pay compensation to the Petitioners in terms of re-determined Awards dated 30 June 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. 30 June 2016 until payment.

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

(iv) Respondent No.1-Deputy Collector (Land Acquisition) shall send the proposal of payment of compensation alongwith interest to Respondent No.4-CIDCO within four weeks from today. Upon Respondent No.4-CIDCO receiving the proposal, payment shall be made to the Respondent No.1-Deputy Collector (Land Acquisition), within eight weeks from the receipt of the proposal.

(v) As soon as the aforesaid amount is received by the Office of the 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.

8. The Petition is allowed in the above terms.

(PRAKASH D. NAIK, J.)

(A.A. SAYED, J.)

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