

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.2972 of 2018
(Ambadas Wasudeorao Ninghot and one .vs. Namdeo Madhuji Navrange
and ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders.
and Registrar's orders

Mr. A.A.J. Mirza, Advocate for Petitioners.
Mr. A.M. Ghare, Advocate for Respondent No.1.
Mr. S.B. Bissa, AGP for Respondent Nos.2 and 3

CORAM : Manish Pitale, J.
DATED : February 5, 2019.

By this petition, the petitioners have challenged order dated 22.04.2018 passed by the respondent no.3 Sub Divisional Officer- Land Acquisition Officer, Murtizapur, whereby an objection raised by the petitioners towards disbursal of award amount to the respondent no.1, has been rejected.

2. It is the case of the petitioners that they have been in cultivating possession of the subject land since 1976-1977 and according to them they have become owners by operation of the provisions of the Maharashtra Tenancy of Agricultural Lands (Vidarbha Region) Act, 1958. It is, therefore, contended that since they are entitled to be recognized as owners of the land in question of which they were tenants since 1976-1977, the amount of compensation payable for acquisition of the said land ought to have been paid to them.

3. The record shows that by order dated

30.06.2011, the Tahsildar rejected the application submitted by the petitioners for mutating the said land in their names in the record of rights. In the said order, it was noted by the Tahsildar that although the petitioners were tenants in the said land from 1976-1977, since they had failed to initiate any proceedings under the provisions of the said Act for being declared as owners of the land, their application could not be entertained. Thereafter, the petitioners filed an application under the provisions of the said Act for determination of purchase price and transfer of ownership in respect of the said land before the Tahsildar against the respondent no.1. By order dated 16.12.2014, the Tahsildar rejected the said application. Aggrieved by the same, the petitioners filed appeal before respondent no.3- Sub Divisional Officer under the provisions of the said Act. By order dated 20.03.2017, the Sub Divisional Officer partly allowed the appeal, set aside the order of the Tahsildar and remanded the matter back for fresh consideration. It is an admitted position that the aforesaid proceeding is pending before the Tahsildar.

4. In the meanwhile, on 28.12.2016 the respondent no.3 as the Land Acquisition Officer passed the award concerning acquisition of the land in question. On the basis of the record placed before him, the Land Acquisition Officer determined the amount of compensation payable to the respondent no.1 for the land in question as the respondent no.1 was the recorded owner. The amount was to be disbursed to

respondent no.1, when the petitioners filed an application raising objection before the respondent no.3 - Land Acquisition Officer, which has been rejected by the impugned order dated 22.04.2018. In the impugned order, it has been specifically noted that the respondent no.1 is recorded as the owner of the land in question and that, therefore, the amount of compensation is payable to him and that objection raised on behalf of the petitioners deserved to be dismissed.

5. On the basis of the record, it cannot be said that the respondent no.3- Sub Divisional Officer and Land Acquisition Officer has committed any error in rejecting the objection of the petitioners. The only aspect for consideration is that the aforesaid proceedings initiated by the petitioners under the provisions of the Act of 1958 are still pending before the Tahsildar upon remand by the Sub Divisional Officer. Therefore, there is some substance in the contention raised on behalf of the petitioners that if their application under the provisions of the said Act is allowed and they are held to be entitled to transfer of ownership under the provisions of the said Act by operation of the provisions of the said Act, they would be entitled to the amount of compensation payable for acquisition of the said land. But, disbursal of compensation to the respondent no.1 cannot be made to wait the culmination of the said proceedings initiated by the petitioners.

6. Hence, it is found that the present writ

petition is without any merit and accordingly it is dismissed. It is further observed that the amount of compensation that would be disbursed to the respondent no.1, shall be subject to the proceedings initiated by the petitioners before the Tahsildar under the provisions of the Act of 1958.

7. The writ petition is disposed of in the above terms.

JUDGE

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