

**FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR**

WRIT PETITION NO. 7526/2019

(VITHOBA MAINAJI KADAM **VERSUS** THE COLLECTOR, BULDANA & ANOTHER)

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

Court's or Judge's orders

Shri S.D. Dharaskar, counsel for petitioner.
Shri A.M. Kadukar, A.G.P. for R-State.

CORAM : A.S. CHANDURKAR, J.

DATE : NOVEMBER 15, 2019.

RULE. Heard finally with consent of counsel for the parties.

The petitioner is aggrieved by the orders passed by the Sub-Divisional Officer and Land Acquisition Officer, Sindkhedraja thereby refusing to grant any compensation to the petitioner under provisions of Section 28A of the Land Acquisition Act, 1894 on the ground that the amount of rehabilitation compensation has already been granted to the petitioner.

Shri S.D. Dharaskar, learned counsel for the petitioner submitted that after the impugned orders were issued by the Sub-Divisional Officer, this Court in *Motiram Zingar Wawre Versus State of Maharashtra & Others* [2017(4) Mh.L.J. 627] held that the amount received under any rehabilitation package of the State Government would not disentitle the land holder from receiving statutory amounts under the provisions of the said Act. After noticing that judgment, the Divisional Commissioner had again informed the Collector to take necessary decision in the matter but till date the same has not been done. It is in this backdrop that the initial orders passed by the Sub-Divisional are under challenge. He

submits that the impugned orders are liable to be set aside on the ground that they are contrary to the decision of this Court in *Motiram Zingar Wawre* (supra).

Shri A.M. Kadukar, learned Assistant Government Pleader for the respondents supported the impugned orders dated 04.11.2016 and 01.12.2016 and submitted that the Divisional Commissioner has referred to the decision in *Motiram Zingar Wawre* (supra) and has directed the Collector to take appropriate decision in the matter.

In *Motiram Zingar Wawre* (supra), it has been held that receipt of any amount under any rehabilitation package by the land owners would not disentitle them to receive statutory compensation pursuant to the award passed under Section 11 of the said Act. The ratio of that decision would be applicable to the cases in hand. Hence, for reasons recorded in the aforesaid decision, the following order is passed:-

- I. The orders passed by the Sub-Divisional Officer dated 04.11.2016 and 01.12.2016 holding that the petitioner is not entitled to receive compensation under Section 28A of the said Act is set aside.
- II. The Land Acquisition Officer shall consider the application as made by the petitioner under Section 28A of the said Act and pass necessary orders thereon in accordance with law. The benefit under Section 28A of the said Act shall not be refused only on the ground that rehabilitation compensation has been received by the petitioner. Necessary steps be taken by the respondents in that regard expeditiously.

The Writ Petition is allowed in aforesaid terms and disposed of. No costs.

JUDGE

APTE