

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.311 OF 2008
WITH
CIVIL APPLICATION NO.2567 OF 2008
IN
WRIT PETITION NO.311 OF 2008**

Vasant Shankar Gurav and Ors. ...Petitioners
Versus
The State of Maharashtra and Ors. ...Respondents

.....

Mr. Vishwanath Talkute for the Petitioners.

Ms P.N. Diwan with Mr. P.I. Patel, AGP for the Respondent Nos.1 to 3-State.

**CORAM : A.A. SAYED AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 9th JANUARY, 2020.

P.C.:-

1. The Petitioners have filed this Petition seeking the following relief:-

“(a) This Hon’ble High Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction directing the Respondent No.3 to pay to the Petitioners balance amount of compensation as per the Award dated 15-8-2003.”

2. It is the case of the Petitioners that on 25/05/1877 the Petitioners’ predecessors i.e. Appabin Raghu Gurav was granted *Watan* by *Inam Patra*. He was gifted the subject lands bearing

Survey No.404 admeasuring 28 Acre and 29 Gunthas and Survey No.86 admeasuring 10 Acre and 19 Gunthas situated at Village-Taradgaon, Taluka-Phaltan, District-Satara (hereinafter referred to as 'said lands'). The Petitioners' predecessors cultivated the said lands and in the year 1955, the names of the Petitioners' were recorded in the records of rights as occupants.

3. On 03/02/2001 the Respondent No.3-Special Land Acquisition Officer issued a Notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the said Act') and proposed to acquire 9 Hectares and 92R land out of the said lands. On 02/08/2001 the Notification under Section 6 of the said Act was issued. On 15/08/2003, the Respondent No.3-SLAO declared the award determining the compensation at Rs.19,75,643/- to be paid to the Petitioners for the acquired land. On 27/07/2004 the Respondent No.3-SLAO issued notice under Sections 12(3) of the said Act and called upon the Petitioners to accept the amount of compensation on 13/08/2004 as per the award.

4. According to the Petitioners though the cheques for compensation were ready, the Respondent No.3-SLAO refused to pay and withheld the same. On 27/05/2005 the Respondent No.2-

Collector, Satara, directed the Respondent No.3-SLAO to pay the amount of compensation to the Petitioners as per the award and submit a report to him. Despite the aforesaid directions of the Respondent No.2-Collector, the Respondent No.3-SLAO refused to release the amount of compensation. On 05/02/2007, the Petitioners were offered and paid only 50% amount of the compensation relying upon a Government Resolution dated 26 June 2006.

5. The grievance of the Petitioners is that though under the award the compensation was determined at Rs.19,75,643/-, only 50% of the amount was paid by the Respondent No.3-SLAO to the Petitioners (which was accepted under protest) and the balance amount is arbitrarily and illegally withheld due to political pressure by members of village Taradgaon, Taluka Phaltan. The Petitioners therefore pray for directions against the Respondents to pay the balance amount of 50% of the compensation to the Petitioners as per the award dated 15-08-2003.

6. An Affidavit-in-Reply is filed on behalf of the Respondents. In the said Affidavit-in-Reply, it is stated that the Sarpanch, Grampanchayat Taradgaon, had filed an application on behalf of villagers objecting to the payment of compensation amount in respect of the said land to the Petitioners. The Affidavit-in-Reply

further states that the amount of compensation is to be distributed by the Respondents on the basis of Government Resolution dated 26/06/2006. It is averred that as per Revenue entries, the said land is Devasthan Inam Land. It is stated that as per the Government Resolution dated 26/06/2006, if Devasthan is the owner of the subject land, the compensation is to be apportioned between the Inamdar and Tenants. It is further stated in the Affidavit-in-Reply that 50% of the amount of compensation was accepted by the Petitioners under protest.

7. Heard the learned Counsel for the Petitioners and the learned AGP for the Respondents.

8. It is not in dispute that under the Award dated 15.08.2003, the compensation amount was determined at Rs.19,75,643/- to be paid to the Petitioners for the acquired land and that the Petitioners have been paid only 50% of the compensation amount. The Award dated 15-08-2003 has not been challenged by any one before a competent Court. There is no claim filed by the Devasthan for apportionment of the amount of compensation. In the circumstances, the Respondent No.3-SLAO ought to have paid the entire amount of compensation to the Petitioners which was determined under the award. Reliance by the Respondents on the GR dated 26/06/2006 is misplaced. In any

event, the said GR dated 26.06.2006 would not apply when the award was declared on 15.08.2003, i.e. prior to issuance of the said GR. It is also noted that even the Respondent No.2-Collector had specifically directed the Respondent No.3-SLAO to pay the amount of compensation to the Petitioners as per the award. We are of the view that there was no justification in the Respondent No.2-SLAO withholding the 50% of the compensation amount under the award and the action of the Respondent No.2-SLAO is arbitrary and without authority of law.

8. In light of the above, the Petition succeeds. Rule is made absolute in terms of prayer clause (a). The amount shall be paid to the Petitioners within a period of 8 weeks from the date this order is uploaded, failing which the amount shall carry interest @ 7% p.a. until payment. The Civil Application does not survive and to stand disposed of.

(ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)