

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3477 OF 2018

Jayant Narayan Thorat .. Petitioner

Vs.

General Manager,
National Thermal Power Corpn.
Limited & Ors. .. Respondents

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Mr. M.V. Thorat i/b Mr. Sachin B. Thorat for the Petitioner.

Mr. M.A. Choudhari for Respondent No.1.

Mr. Y.S. Khochare, A.G.P. for Respondent Nos.2 to 11.

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**CORAM: PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATED : 22nd JANUARY, 2020.

P.C:-

1. It is rather unfortunate that the Writ Petition which was filed in this Court in March, 2018, with advance copy being served upon the Respondents has till date remained unresponded by the Respondents.

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2. From a perusal of the Writ Petition, it is apparent that the contesting party is National Thermal Power Corporation i.e. Respondent No.1. On 10th October, 2019 last opportunity was granted to Respondent No.1 to file a reply within two weeks.

3. We are thus constrained to dispose of the Writ Petition treating averments made in the Writ Petition as correct on account of a non traverse thereto by Respondent No.1.

4. Even otherwise, the averments made in the Writ Petition have been made good by the Petitioner with reference to Ex-A to Ex-E, which are all Government documents.

5. NTPC proposed to set up a Thermal Power Plant in Village Aaherwadi, Taluka South Solapur, District Solapur. For the cooling plant of the Thermal Power Project, water was required and a decision was taken to transport water from Ujani Dam by laying a pipeline from the Ujani Dam to Village Aaherwadi. The said pipeline passed through the lands of the Petitioner and for which Respondent No.1 applied for the necessary permission before the Tahsildar as required by Section 49 of the Maharashtra Land Revenue Code, 1966.

6. The permission was sought for on 08th February, 2011. Vide Ex-A. On 14th November, 2011 the Tahsildar granted the

necessary permission for laying down the pipeline passing through the lands of the village which included land bearing Gat Nos.675 and 677 belonging to the Petitioner. The permission was granted on the terms laid down in the order.

7. Relevant for the purposes of the claim in the Writ Petition is to note Condition Nos.10 and 11 in the Order dated 14th November, 2011. The same read as under:

“10. The NTPC Ltd. shall be liable to pay compensation to the Land Owner for the fruit trees/trees which are going to affect due to said pipeline.

11. The compensation with regard to crops, trees, fruit trees and constructions shall be paid to concerned land owner in two installments. First installment of 50% of compensation shall be paid prior to start of work in the agricultural land and final installment shall be paid by the NTPC Ltd. immediately after the work in the said land gets over.”

8. Ex-B being the 7/12 extract of the revenue record records trees of Pomegranate, Banana and Teak as also standing crops on the lands of the Petitioner for the rabbi and kharif season of the year 2011-12.

9. This required a valuation to be made so that the Petitioner

could be compensated for the loss of standing crops and trees which would be the result of laying of pipeline.

9. On a request made to the Deputy Conservator of Forests by NTPC, a valuation was carried out recording therein that as of 25th April, 2013 the valuation of the standing crops and the trees would be ₹ 4,51,148/-. The same is reflected in Ex-E. The Petitioner made a request for a re-valuation on account of the fact that as per the Petitioner, the height and girth of the teak trees was not properly assessed resulting in a lesser value of the timber being assessed.

10. The Deputy Conservator of Forests made a re-assessment and submitted the Report dated 5th January, 2017, Ex-E, making a reference to the previous report and highlighting the deficiencies therein; revising the compensation assessed at ₹ 15,05,194/- plus ₹ 4,00,000/-.

11. Thus, the Petitioner claims entitlement to be paid ₹15,05,194/- on account of 180 Teak trees and ₹ 4,00,000/- on account of fruit trees.

12. The issue therefore rests at the claim of the Petitioner with reference to the Report, Ex-E.

13. Since the Report, Ex-E, has been prepared at the instance of NTPC and it is not the case of NTPC pleaded before us that they have any objection to the Report, we dispose of the Writ Petition directing NTPC to pay compensation in sum of ₹ 19,05,194/- to the Petitioner.

14. The work of laying down the pipeline was executed by NTPC in the year 2013.

15. This was the year when the Petitioner became entitled to compensation.

16. Thus, we direct that with effect from 1st January, 2014 the Petitioner would be entitled to interest on the said sum of ₹19,05,194/- @ of 8% per annum reckoning from 1st January, 2014 till when the payment is made.

17. The payment would be made by the NTPC to the Petitioner within a period of six weeks from today.

18. No costs.

(SMT. BHARATI DANGRE, J.)

(CHIEF JUSTICE)