

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

WRIT PETITION NO. 840 OF 2019

Janardan Dnyanoba Gaikwad
v/s.

.....Petitioner

The Deputy Collector (Land Acquisition) and
The Special Land Acquisition Officer, Panvel,
Dist. Raigad and ors.

.....Respondents

Ms. Deepa Punde i/b. Sachin Punde for the Petitioner.
Ms. P.N. Diwan, AGP for the State / Respondent Nos.1 to 3.

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

DATE : 28th JANUARY, 2020.

P. C. :-

1. The Petitioner has approached this Court seeking the following reliefs :-

" (A) This Honourable High Court be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction and/or Order in the nature of Writ calling for the records and documents pertaining to Wadghar Unit Case No. 63, Award No.4 from the Respondents and after perusal and examination;

(B) This Honourable High Court be pleased to issue a Writ of Certiorari or any other appropriate Writ or direction and/or Order in the nature of Writ quashing and setting aside impugned Communication/Order dated 21/11/2015 and __/01/2016 (Exhibit 'J' & 'A' hereto) by Respondents in respect of Petitioner's Application dated 11/08/2015;

(C) This Honourable High Court be further pleased to issue a Writ of Mandamus or any other appropriate Writ or direction and/or Order in the nature of Writ allowing Application dated 11/08/2015 and directing Respondents to forthwith release and pay compensation by

fixing the market value of the acquired at the rate of Rs.25/- per square meter together with all statutory benefits of solatium, additional component, interest, etc. "

2. Some of the land owners whose lands were acquired under the same Notification under Section 4 of the Land Acquisition Act had approached the Supreme Court in respect of enhancement of compensation. By order dated 15/07/2013, the Supreme Court in ***Ambaji Dharma Pardeshi v/s. The State of Maharashtra in Civil Appeal Nos.5088-5089/2013*** issued the following directions :-

" In the result, the appeals are allowed, the impugned order is set aside and it is held that the appellants are entitled to compensation at the rate of Rs.25/- per sq. mtr. The respondents are directed to pay the balance amount of compensation to the appellants with all statutory benefits and interest within three months from today.

With a view to ensure that the landowners are not fleeced by the middleman, we deem it proper to issue the following further directions ;-

(i) Within one month from today, the Special Land Acquisition Officer shall depute an officer subordinate to him not below the rank of Naib Tahsildar or an equivalent rank, to get in touch with the landowners and/or their legal representatives and inform them about their entitlement to receive the balance amount of compensation.

(ii) The officers concerned shall instruct the landowners and/or their legal representatives to open savings bank account in a nationalized or scheduled bank, in case they already do not have such an account.

(iii) The account numbers of the landowners and/or their legal representatives should be furnished by the officer concerned to the Land Acquisition officer within a period of one month.

(iv) Within next one month, the Special Land Acquisition Officer shall deposit the amount of compensation along with other statutory benefits in the bank accounts of the landowners and/or their legal representatives in the form of account payee cheque.

With a view to do justice to other landowners of Village Wadghar whose land was acquired along with that of the appellants but who may not have been able to approach the Reference Court, the High Court and this Court due to sheer ignorance, poverty and other similar handicaps, we direct that they shall also be paid compensation at the rate of Rs.25/- per sq. mtr with all statutory benefits and interest. This direction is being given keeping in view the philosophy underlying Section 28A of the Act as interpreted by this Court in Ramakrishna Rao v. The Singareni Collieries Company Ltd. and Anr. (2010) 10 SCC 650 and Girimallappa v. The Special Land Acquisition Officer M and MIP and anr. (2012) 11 SCC 548 and in exercise of the power vested in this Court under Article 142 of the Constitution. "

(emphasis supplied)

3. The Petitioner thereafter approached the Supreme Court by

filing the Contempt Petition (C) No.427-428/2016 in Civil Appeal No.5088/5089/2013 alleging breach of the directions contained in the order dated 15/07/2013 as the Authorities failed to grant enhanced compensation @ Rs.25/- per sq. meters with statutory benefits and interest to the Petitioner. The Supreme Court passed the following order in the Contempt Petition :-

“ The contempt petitioners are at liberty to get the order complained of executed by the competent jurisdictional court. If approached, the competent executing jurisdictional court shall take appropriate steps for compliance of order/direction passed by this Court expeditiously.

The contempt petitions are disposed of with the aforesaid liberty. ”

4. It is noticed that the Petitioner had earlier filed a Reference under Section 18 which Reference came to be allowed and the compensation was enhanced by the Reference Court by order dated 17/07/2004 @ Rs.15/- per sq. meter. The State Government had carried the matter in Appeal before this Court, which Appeal came to be dismissed for non-compliance of the self-operative order dated 08/01/2007. Some other land owners whose lands were acquired under same Notification under Section 4, who had filed Reference under Section 18, relying upon the directions contained in the order dated 02/07/2013 of the Supreme Court in

Ambaji Dharma Pardeshi (supra), had approached this Court by filing the Writ Petition No.3613/2014 (**Pandharinath Parsuram Keni and ors. v/s. The Special Land Acquisition Officer, Metro Centre No.3 and anr.**). The First Court vide order dated 07/06/2017, dismissed the Writ Petition inter alia on the ground that the Petitioners therein had approached the Reference Court under Section 18 of the Land Acquisition Act, 1894 and therefore were not entitled to file an Application under Section 28-A of the Land Acquisition Act and cannot claim the benefit of the directions contained in the order dated 02/07/2013 of the Supreme Court. That matter was carried to the Supreme Court by filing an SLP numbered as Civil Appeal (St.) No.3790/2018. By order dated 13/04/2018, the Supreme Court held that the Petitioners therein shall be entitled to compensation in the same terms as directed in the order dated 15/07/2013 in **Ambaji Dharma Pardeshi** (supra).

5. Having regard to the directions contained in the order dated 02/07/2013 of the Supreme Court in **Ambaji Dharma Pardeshi** (supra) and the order dated 13/04/2018 of the Supreme Court in **Pandharinath Parsuram Keni and ors.** (supra), the present Petitioner, who is similarly placed, in our view, would be entitled for the benefit of the directions contained in the order dated

02/07/2013 of the Supreme Court in ***Ambaji Dharma Pardeshi*** (supra). We accordingly hold that the Petitioner would be entitled for compensation in the same terms as held in the case of ***Ambaji Dharma Pardeshi*** (supra).

6. It is however noticed that since the Petitioner had approached the Supreme Court by filing the Contempt Petition No.431-432/2016 and the Supreme Court had vide order dated 01/08/2016 in said Contempt Petition directed that the Petitioner would be entitled to get the order executed by the Competent Jurisdictional Court, we dispose of the Petition by passing the following order :-

ORDER :-

(a) The Petitioner would be entitled to enhancement of compensation at the rate of Rs.25/- per sq. meters with all statutory benefits and interest in the same terms as directed in the case of ***Ambaji Dharma Pardeshi*** (supra).

(b) The Petitioner would be at liberty to get the order executed by the Competent Jurisdictional Court in the event the Land Acquisition Officer does not pay the amount of compensation as directed above within a period of eight weeks from today.

(c) The impugned orders of the Respondent No.1 - The Deputy Collector (Land Acquisition) and The Special Land Acquisition Officer, Panvel, District - Raigad dated 21/11/2015 and January, 2016 respectively are set aside.

Preeti H.
Jayani

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Preeti H. Jayani
Date: 2020.02.04
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7. The Writ Petition to stand disposed of in the above terms.

(SMT. ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)