

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

CIVIL APPLICATION [CAW] NO. 1981/2021
IN WRIT PETITION NO. 2882/2019.

Dhanraj Ramesh Tule and others.

-Versus-

The State of Maharashtra, through the Department of Revenue and Forest and others.

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

Court's or Judge's orders

Dr. Mrs.R.S. Sirpurkar, Advocate for Petitioners.
Mrs. K.S. Joshi, Govt. Pleader (incharge) for Respondents.
Shri A.M. Kukday, Advocate for Applicant-Intervenor (CAW
No.2005/2021).

CORAM : DIPANKAR DATTA, CJ.
& VINAY JOSHI, J.
DATE : DECEMBER 10, 2021

Heard.

2. This is an application for modification of the order dated 23.07.2021, at the instance of the respondents in the writ petition. The reasons for seeking modification, according to paragraph no.3 of the application, are set out in an accompanying affidavit. The said accompanying affidavit is an affidavit of the Divisional Commissioner, Nagpur dated 08.09.2021.

3. After extensive hearing Ms. Joshi, learned Government Pleader (In-charge) appearing for the applicants submits that the said affidavit would not be pressed.

4. Since the affidavit is not being pressed, there is no question of modification of the order dated 23.07.2021. The consequence is that the order dated 23.07.2021 would stand untouched. The application is, thus, dismissed. No costs.

5. The facts giving rise to the writ petition have been recorded in the previous order dated 25.09.2020, as well as the order dated 23.07.2021. We find from another order dated 20.10.2020, that the coordinate Bench expected the respondents to reflect upon the proposal of the petitioners for payment of *“lumpsum compensation in lieu of alternate land as has been done in other cases in respect of Gosikhurd Project”*. The same concern was taken note by a subsequent coordinate Bench and recorded in the order dated 01.09.2021. On a query as to why the petitioners could not be subjected to similar treatment as has been extended to project affected persons of Gosikhurd Project, Ms. Joshi, Government Pleader (in-charge) has invited our attention to a Government Resolution dated 18.06.2013 and particularly to paragraph 2 thereof. According to her, the proposal which was accepted was to be treated as a special case and in any case not intended to be a precedent.

6. Having heard such submission, we looked into the Government Resolution and read the same in between the lines. No reason appears therefrom as to why the case of the said project affected persons was considered special. The said resolution was adopted only because there was a

demand from the project affected persons. We are therefore, clear in our mind that there was no special reason for which the project affected persons of Gosikhurd Project were given the benefit of lumpsum compensation.

7. That apart, our attention has been drawn by Dr. Sirpurkar, learned advocate appearing for the petitioners to the minutes of meeting of several Government functionaries held on 06.03.2019, whereupon a decision was taken qua Wang Marathwadi Project in district Satara to extend the benefit of similar lumpsum payment of compensation to the project affected persons.

8. Despite orders passed by the Court, the respondents have not decided the proposal of the petitioners for payment of lumpsum compensation. The reasons which were offered as explanation in the said affidavit no longer survive in view of the same not being pressed. The other argument of the said resolution being special and not to be used as a precedent has also not impressed us. In such view of the matter, we direct the respondents to proceed for payment of lumpsum compensation in favour of petitioners in like manner as has been extended to project affected persons of Gosikhurd and proposed for Wang Marathwadi Projects, within a period of three months from the date of receipt of a copy of this order. The decision, taken by the respondents in terms of this order, shall be placed by way of an affidavit on the record of this case by the next date.

9. The aforesaid order is necessitated considering the fact that it has

been long 38 (thirty-eight) years since the acquisition was made and that it is high time that the land owners, who are project affected persons, receive due compensation.

10. List the Writ Petition in the third week of March, 2022 before the appropriate Division Bench.

11. Civil Application [CAW] No.2005/2021 for intervention is not opposed by the petitioners and accordingly, stands allowed. No costs.

12. Registry to take steps.

(VINAY JOSHI, J.)

(CHIEF JUSTICE)

Rgd.