

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1555 OF 2019

TUKARAM PREMSING SABLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the Petitioners : Shri Jadhav Ganesh R.
Government Pleader for the Respondents/ State : Shri D.R. Kale

...

CORAM : RAVINDRA V. GHUGE
&
S.G. DIGE, JJ.

DATE :- 05th May, 2022

Per Court :-

1. By this Writ Petition, the petitioners have put forth
prayer clauses B and C as under :-

“B) By way of issuing appropriate writ or directions in the like nature, the Respondents may kindly be directed to pass an award under Section 26 r/w Section 36 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and as the procedure prescribed therein, thereby for acquisition of the petitioner’s lands.

C) By way of issuing appropriate writ or directions in the like nature, the Respondents may kindly be directed to pay the rental compensation to the petitioners of their acquired lands, from year 2011 along with 8% p.a. interest.”

2. The Government of Maharashtra has initiated the land acquisition proceedings on 06.06.2006 for acquiring the lands of the petitioners by private negotiations between the petitioners and respondent No.5. This is an admitted position.

3. It is the contention of the petitioners that respondent Nos.4 and 5 induced them into signing the sale deeds, which are registered. The land was acquired for construction of the Lower Painganga Project in Yeotmal and Nanded districts. The sale deeds were registered before the Sub Registrar, Kinwat in view of Section 11(2) of the Land Acquisition Act, 1894. This is also an admitted position.

4. The affidavit in reply filed by the Naib Tahasildar, Tehsil Office, Kinwat, dated 18.12.2019 indicates in paragraphs 6 and 7 as under :-

“6. With reference to para nos.4 to 7, I say and submit that with reference to instruction issued on 26.04.2011 Respondent Nos.4 and 5 and Petitioners to private negotiations completed sale deed process through Respondent No.5. The negotiated amount which was agreed by both the parties paid to respective petitioner by cheque and pay orders. However on 28.12.2018, 07.01.2019, the petitioners wrote application to Collector Nanded and Tahsildar Kinwat and requested not to initiate mutation procedure. The said application also given to the Acquiring Body. On which Respondent

No.5 forwarded letter to the Collector, Nanded for mutating the petitioner's land in the name of Respondent No.5 and rejected the application of petitioner on the ground that the negotiated amount was paid to the petitioners and that amount was agreed by both the parties. Also they have given written assurance in sale deed that they will not file any petition to any court against this negotiation and will not obstruct the government process. Copy of letter dated 08.05.2019 is annexed herewith and marked as Exhibit R-1.

7. *With reference to para nos.8 to 10, I say and submit that the negotiation procedure agreed by both the parties, Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, not applied in this case. Also Section 24(2) is applicable only when award under Section 11 of Land Acquisition Act, 1894 is declared. In this case no such award was declared and land was transferred through private negotiation.”*

5. It is equally undisputed that pursuant to the sale deeds signed and executed by all these petitioners, the compensation amounts arrived at in private negotiations, were paid to these petitioners.

6. It is obvious that these petitioners desire to draw the benefits of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, on the ground that they never intended to sign the sale deeds or that

they never intended to participate in private negotiations or that they never intended to receive the compensation amount.

7. The litigants cannot be permitted to approbate and reprobate, having once entered into private negotiations with regard to which there is hardly any evidence to indicate fraud, deceit or coercion. Their allegations are baseless.

8. In view of the above, this Writ Petition cannot be entertained. The same is, therefore, dismissed.

kps (S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)