

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2664 OF 2021

BHAGIRATHI HANMANTH PATIL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.A.D.Sonkawade, Advocate for the petitioners.
Mr.S.G.Sangle, AGP for respondent Nos. 1 to 3.
Mr.B.R.Survase, Advocate for respondent No.4.

(CORAM : RAVINDRA V. GHUGE AND
S.G. DIGE, JJ.)

DATE : MAY 05, 2022

PER COURT :

1. The petitioners before us have approached this Court with prayer clauses B, C and D, which read as under :-

"B. Issue a writ of certiorari to quash and set aside the communication issued by Sub-Divisional Officer, Udgir to petitioners on 23.12.2019;

C. Issue a writ of mandamus or a writ in like nature directing the respondents herein to modify the award dated 04.05.2019 and award the compensation amount with interest as per Section 34 of the Land Acquisition Act, 1894 till passing of award under Section 28-A of the Land Acquisition Act, 1894 i.e. 04.05.2019;

D. Issue a writ of mandamus, or writ in like nature, directing the respondents herein to pay 10% interest which is deducted from the

original award passed on 12.12.2015 passed by Lok-Adalat;"

2. While issuing notice on 11.02.2021, this Court has observed in paragraph No.1 of it's order, as under :-

"1. The learned counsel for petitioners submits that the petition is restricted to the extent of claiming interest at the rate of 10% per annum from the date of settlement till the payment of the amount.

2. Issue notice to respondents, returnable on 08.04.2021. The learned AGP waives service of notice for respondent Nos. 1 to 3."

3. On 13.04.2022, after we heard the learned Advocates for quite some time, we had passed the following order :-

"1. The learned Advocate representing respondent No.4 submits that he desires to take instructions as regards the undertaking executed by the petitioners i.e. at page No.21-A.

2. The petitioners rely upon the judgment of this Court in the matter of Sadu (Sahadeo) Aba Kamble (deceased) Vs. State of Maharashtra and others, 2018(5) Mh.L.J. 656, to buttress their submission that they are entitled for 10% interest on the Award under Section 28-A of the Land Acquisition Act, 1894, as the compensation was not paid within six months.

3. Stand over to 22.04.2022 in the "passing orders" category."

4. Having extensively considered the submissions of the learned

Advocates for the respective sides and taking into account that these two petitioners namely Bhagirathibai Hanmanth Patil and Shri. Venkat Apparao Kodmangale are claiming the payment of 10% of the interest amount, we are not required to go into much details in this case.

5. Suffice it to say that both these petitioners entered into a Lokadalat settlement on 12.12.2015 vide which, they were assured of an award u/s 28(A) within 6 months from the date of the settlement, Vide Clause 3, the petitioner waived 10% amount from the total interest amount as the award was to be delivered within 6 (six) months. They have signed below the settlement document which contains a clause at Sr.No.4 that they would not pursue the State Government for payment of compensation.

6. It is undisputed that the award u/s 28-A was delivered on 25/07/2016, which is more than 6 months beyond the settlement and the amount was finally paid to the petitioners on 04.05.2019.

7. The learned Division Bench of this Court has dealt with this issue

at the Principal Seat in *Sadu (Sahadeo) Aba Kamble (deceased) Vs. State of Maharashtra and others*, 2018(5) *Mh.L.J.* 656, wherein this Court considered the delay on the part of the statutory authorities in making the payment pursuant to the award u/s 28-A. 10% deduction towards royalty for payment of compensation by the statutory authority was interfered with by the Court and the respondents were directed to make the payment of 10% interest within 3 months.

8. From the facts of the case in hands, it is obvious that on the one hand, the petitioners were assured of an early payment since the award u/s 28-A was to be delivered within 6 (six) months. On the other hand, they were bound to a condition at Clause 4 that they would not pursue the State for an early payment. If this be so, the logical question that arises is as to why should these petitioners sacrifice 10% of the interest amount when the State is not serious in making an early payment and would make such payment merrily thereafter. If these petitioners were to litigate in this Court, we do not find that the State could demand 10% royalty.

9. In view of the above, this petition is partly allowed. The 10% of

the interest amount from 12.12.2015 till the amount was actually paid on 04.05.2019, shall be paid to these two petitioners on or before 30.07.2022, failing which, we award further interest @ 6% on the said amount from 12.12.2015 till the amount is actually paid.

(S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)