

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4561 OF 2022

1. Dnyanoba s/o Mahada Mamadge (died),
Through his LR's -

1-A. Prakash s/o Dnyanoba Mamadge
Age : 65 years, Occu. Agri,
R/o. Bhandarwadi, Tal. Renapur,
Dist. Latur.

2. Ramakant s/o Nathrao Barure
Age : 52 years, Occu. Agri,
R/o. Bhandarwadi, Tal. Renapur,
Dist. Latur.

3. Ganpati s/o Narba Barure (died)
Through LR's -

3-A. Mathurabai w/o Ganpati Barure
Age : 69 years, Occu. Household & Agri.,
R/o. Bhandarwadi, Tal. Renapur,
Dist. Latur.

3-B. Naresh s/o. Ganpati Barure
Age : 53 years, Occu. Agri.
R/o. Bhandarwadi, Tal. Renapur,
Dist. Latur.

3-C. Atmaram s/o Ganpati Barure
Age : 49 years, Occu. Agri.,
R/o. Bhandarwadi, Tal. Renapur,
Dist. Latur.

.. Petitioners

Versus

1. The State of Maharashtra
Through the Collector, Latur.

2. Sub Divisional Officer,

Ausa-Renapur, Head Office : Old Collector Office,
Shivaji Chowk, Latur,
Dist. Latur.

3. The Executive Engineer,
Latur Medium Project, Latur,
Dist. Latur.

.. Respondents

Mr. Krishna P. Rodge, Advocate for the Petitioners.
Mr. A. S. Shinde, AGP for Respondents-State.

**CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.**

DATED : 25th APRIL 2022.

ORAL JUDGMENT (PER R. D. DHANUKA, J.) :-

. Rule. The learned A.G.P waives service for the respondents. Rule made returnable forthwith.

2. By this petition filed under Article 226 of the Constitution of India the petitioners have prayed for writ of certiorari or any other appropriate writ thereby setting aside the impugned communication dated 31.03.2022 issued by the respondent No. 2 directing the petitioner to submit the Bank Guarantee of Nationalized Bank for withdrawal of the amount of enhanced compensation awarded under Section 28-A of the Land Acquisition Act and further seek writ of mandamus to disburse the amount of enhanced compensation deposited by the respondent No. 3 on furnishing individual undertaking of the petitioners.

3. Mr. Rodge, learned counsel for the petitioners invited our attention to the order passed by this Court on 01.04.2022 in Writ Petition No. 3528 of 2022 in case of Venkatrao S/o Govindrao Pawar Vs. The State of Maharashtra and others and submits that in identical matter this Court has substituted the order of Bank Guarantee passed by the authority as a condition precedent for withdrawal of the amount of enhanced compensation awarded under Section 28-A of the Land Acquisition Act by modifying the said condition. The learned counsel submits that the similar order be passed in this petition also.

4. The learned A.G.P. could not demonstrate as to why the same order shall not be passed in this matter.

5. We accordingly pass the following order.

6. The petitioners will be entitled for withdrawal of the amount as per the award passed under Section 28-A of the Land Acquisition Act, 1894 on following conditions-

A) 50% of the amount is allowed to be withdrawn by furnishing an undertaking that in the event the appeal filed by the acquiring body is allowed and the petitioners are required to re-deposit the amount the petitioners would re-deposit the amount within three months.

B) The petitioners are allowed to withdraw 25% of the amount on

furnishing solvent security of the like amount, and

C) The remaining 25% amount is allowed to be withdrawn on furnishing the Bank Guarantee of any Scheduled or Nationalized Bank.

7. It is made clear that the solvent security of 25% amount shall be furnished within four weeks from the date of order of Registrar (Judicial) of this Court adjudicating upon the solvent security in respect of the 25% amount after hearing the learned counsel for the petitioners as well as acquiring body. The learned Registrar shall pass an order within three weeks from the date of communication of this order. If the petitioners fail to furnish undertaking in respect of 50% of the amount within two weeks from today, by filing such undertaking in this Court and copy of the same shall be served upon the office of the Government Pleader, then the amount of 50% shall be invested by the acquiring body in the fixed deposit of the Nationalized Bank for the period during which the appeal filed by the acquiring body would be pending.

8. We further make clear that if the petitioners do not furnish solvent security towards security of the the amount 25% as determined by the learned Registrar of this Court, the said amount shall also invested in fixed deposit which is received from the acquiring body in any Nationalized Bank during the pendency of the appeal preferred by the acquiring body.

9. In so far as remaining 25% amount is concerned, the petitioners shall furnish Bank guarantee of Nationalized Bank or scheduled Bank within six weeks from today the shall serve a copy of the Bank Guarantee to the Office of the Government Pleader within one week from the date of furnishing such amount .

10. It is made clear that if the Bank Guarantee is not furnished within six weeks from today, the said amount shall also be invested into fixed deposit of Nationalized Bank during the pendency of the appeal.

11. The Bank guarantee that would be furnished by the petitioners shall be kept alive for a period of two years for the time being and for like period, depending upon the pendency of appeal which is filed by the acquiring body. Before expiry of period the acquiring body shall inform the petitioners about the pendency of the appeal that was preferred by the acquiring body. The Writ Petition is allowed in aforesaid terms.

12. Rule is made absolute. No order as to costs.

13. Parties shall act upon the authenticate copy of this order

(S. G. MEHARE)
JUDGE

(R. D. DHANUKA)
JUDGE

PS.B.