

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

WRIT PETITION NO.4813 OF 2020

1. Madhav Bhimrao Menkudale,
Age 71 years, Occ. Agri.
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur.
2. Trimbak Bapurao Menkudale,
Through LRs.
Anil Trimbak Menkudale
Age 45 years, Occ. Agri.,
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur.
3. Nasroddin Ajimsab Shaikh,
Age 35 years, Occ. Agri.
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur.
4. Tukaram Bapurao Bhinge,
Age 40 years, Occ. Agri.
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur
5. Anil Santram Bodake
Age 50 years, Occ. Agri.
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur.
6. Sayyad Ghudan Shafiyoddin,
Age 67 years, Occ. Agri.
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur.
7. Kalyan Bhimrao Menkudale,
Age 68 years, Occ. Agri.
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur.
8. Ramrao Tukaram Sarole,
Age 61 years, Occ. Agri.
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur.

9. Dnyanoba Ramrao Badgire,
Age 59 years, Occ. Agri.
r/o. Nandura (Bk), Tq. Ahmedpur,
Dist. Latur.
10. Bahusaheb Piraji @ Bapurao Shelke,
Age 55 years, Occ. Agri.
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur
11. Mir Jawedali Mir Akbarali,
Age 48 years, Occ. Agri.
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur
12. Shaikh Afsar Shaikh Yusufoddin,
Age 52 years, Occ. Agri.
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur
13. Shaikh Abdulla Shaikh Alisab,
Age 47 years, Occ. Agri.
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur

..Petitioners

Vs.

1. The State of Maharashtra,
Through its Secretary,
Irrigation Development Department,
Mantralaya, Mumbai
2. The District Collector,
Latur
3. The Sub Divisional Officer,
Ahmednagar, Dist. Latur
4. The District Deputy Registrar,
Co-operative Societies, Latur,
5. Maharashtra Nagri Sahakari
Bank Ltd., Latur,
Through its Branch Manager

6. Giriraj K. Joshi,
Age:Major, Occ. Service as
Executive Engineer, Latur,
Minor Irrigation, Latur ..Respondents

AND
WRIT PETITION NO.4835 OF 2020

1. Sulochana Ramrao Sarole,
Age : 55 years, Occ. Housewife,
r/o. Shirur-Tajband, Tq. Ahmedpur,
Dist. Latur
2. Amol Ramrao Sarole,
Age : 40 years, Occ. Service,
r/o. Shirur-Tajband, Tq. Ahmedpur,
Dist. Latur
3. Satyawar Ramrao Sarole
Age 36 years, Occ. Agri.
r/o. Shirur-Tajband, Tq. Ahmedpur,
Dist. Latur
4. Rohini Satyawar Sarole,
Age : 30 years, Occ. Housewife,
r/o. Shirur-Tajband, Tq. Ahmedpur,
Dist. Latur
5. Kondabai Vithalrao Khandade,
Age 35 years, Occ. Housewife,
r/o. Shirur-Tajband, Tq. Ahmedpur,
Dist. Latur
6. Balaji Ramrao Badgire,
Age:52 years, Occ.Agri.,
r/o. Nandur (Bk), Tq. Ahmedpur,
Dist. Latur
7. Vatsala Dnyanoba Badgire,
Age : 55 years, Occ. Agri.,
r/o. Nandur (Bk), Tq. Ahmedpur,
Dist. Latur

8. Manisha Sangram Menkudale,
Age : 35 years, Occ. Housewife,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
9. Sangram Kalyan Menkudale,
Age : 40 years, Occ. Agri.
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
10. Bhimashankar Sangram Menkudale,
Age 19 years, Occ. Education,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
11. Sagar Satish Menkudale,
Age : 24 years, Occ. Business,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
12. Parwatibai Madhav Menkudale,
Age 74 years, Occ. Housewife,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
13. Alim Gundhansab Sayyad,
Age:38 years, Occ. Agri.,
r/o. Ahmedpur, Tq. Ahmedpur,
Dist. Latur
14. Aslam Gudhansab Sayyad,
Age 32 years, Occ. Agri.,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
15. Kalim Gundhansab Sayyad,
Age 34 years, Occ. Agri,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
16. Ajim Gudhansab Sayyad,
Age 40 years, Occ.Agri.,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur

17. Mahemud Gudhansab Sayyad,
Age : 41 years, Occ.Agri.,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
18. Javed Gudhansab Sayyad,
Age : 30 years, Occ. Agri.,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
19. Yeshwant Bapurao Bhinge,
Age:43 years, Occ. Agri,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
20. Meera Tukaram Bhinge,
Age 27 years, Occ. Housewife,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
21. Gangabai Yeshwant Bhinge,
Age : 35 years, Occ. Agri.
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
22. Somesh Dnyanoba Badgire,
Age : 40 years, Occ. Agri.,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur
23. Hariram Sudhakar Kanwate,
Age : 39 years, Occ. Service,
r/o. Dhanora (Bk) Tq. Ahmedpur,
Dist. Latur
24. Jayashree Anil Bodke,
Age : 40 years, occ. Agri.,
r/o. Ahmedpur, Tq.Ahmedpur,
Dist.Latur

..Petitioners

Vs.

1. The State of Maharashtra,
Through its Secretary,
Irrigation Development Department,
Mantralaya, Mumbai
2. The District Collector,
Latur
3. The Sub Divisional Officer,
Ahmedpur, Dist. Latur
4. The District Deputy Registrar,
Co-operative Societies, Latur
5. Maharashtra Nagri Sahakari
Bank Ltd., Latur,
Through its Branch Manager
6. Vaidyanath Urban Co-op.
Bank Ltd., Ahmedpur,
Dist. Latur
Through its Branch Manager
7. Latur District Central Co-op.
Bank Ltd., Ahmedpur, Dist. Latur
Through its Branch Manager
8. Mahesh Urban Bank, Ahmedpur,
Dist. Latur
Through its Branch Manager
9. The Central Bank of India,
Branch Kingaon, Tq. Ahmedpur,
Dist. Latur,
through its Branch Manager
10. Giriraj K. Joshi,
Age:Major, Occ. Service as
Executive Engineer,
Latur Minor Irrigation, Latur

..Respondents

Mr.V.D.Sapkal, Senior Advocate i/b. Mr.L.C.Patil, Advocate for petitioners in W.P. No.4813 of 2020

Mr.R.S.Deshmukh, Senior Advocate i/b. Mr.L.C.Patil, Advocate for petitioners in W.P.No.4835 of 2020

Mr.D.R.Kale, Government Pleader for respondent nos.1 to 4

Mr.R.N.Dhorde, Senior Advocate i/b. Mr.Ruturaj Patil, Advocate for respondent no.6

Mr.S.W.Mundhe, Advocate for respondent no.6 in W.P.No.4835 of 2020

**CORAM : MANGESH S. PATIL &
R.G. AVACHAT, JJ.**

**RESERVED ON : APRIL 04, 2022
PRONOUNCED ON : APRIL 21, 2022**

JUDGMENT :

Heard. Rule. Rule is made returnable forthwith.
With the consent of both the sides the matter is heard finally at the stage of admission.

2. These are the Writ Petitions arising from peculiar state of affairs.

3. We have heard the learned Senior Advocates Mr.V.D.Sapkal and Mr.Rajendra Deshmukh who appear for the

petitioners and Senior Advocate Mr.R.N.Dhorde for the respondent-acquiring body, extensively.

4. The awards passed by the reference Court under Section 18 of the Land Acquisition Act were challenged before this Court by the acquiring body aggrieved by the enhanced rate of compensation awarded by it, and by the land owners as well feeling aggrieved of not having been granted adequate compensation. The reference Court had awarded compensation at the rate of Rs.115/- per sq.ft. for N.A. potential land and Rs.100/- per sq.ft. for other land. As usual, the amount of such enhanced compensation was deposited in this Court. The claimants approached the Supreme Court and by the order of the Supreme Court, they were permitted to withdraw 50% of the amount subject to furnishing usual undertaking and 50% by furnishing bank guarantee.

5. The claimants withdrew only part of the amount. The remaining remained deposited in this court. Subsequently, all the First Appeals of the acquiring body were allowed and the

rate of compensation was reduced to Rs.75/- per sq.ft. and Rs.60/- per sq.ft. These First Appeals were disposed of by the common judgment and order dated 16.09.2019.

6. It appears that the claimants, thereafter, withdrew Rs.52,34,95,771/- collectively from the Registry of this Court on the basis of a communication dated 11.06.2020 received from the respondent/Special Land Acquisition Officer. The total amount withdrawn by the petitioners/claimants is Rs.97,97,84,737/-.

7. Respondent No.5 who is the Executive Engineer in the acquiring body formed an opinion that taking into account the rate of the enhanced compensation which was reduced by this Court and all other factors to be taken into account for calculating the amount of compensation including all the statutory components under the Land Acquisition Act, excess amount was withdrawn by the claimants. He, therefore, informed the matter to the Collector who swung into action and issued various directions pursuant to which communications

were made to respondent No.5 – Maharashtra Nagri Sahakari Bank Ltd., Latur, to which the claimants' compensation was transmitted. Since the claimants had transferred some of the money to various persons, the bank seized the accounts of these 16 claimants and also other 24 persons in whose accounts the monies were transferred from the claimants' account.

8. Aggrieved by such seizure of the accounts, the claimants have filed Writ Petition No.4813 of 2020 and the other persons to whose accounts the monies were found to be transmitted have preferred Writ Petition No.4835 of 2020 questioning the action of the Collector, the Special Land Acquisition Officer, the bank and the Executive Engineer of the acquiring body.

9. We have carefully considered the submissions of all the senior Advocates and borne in mind the aforementioned circumstances. Elaborate arguments were advanced to demonstrate as to what amount of compensation the claimants

are actually entitled to taking into account the provisions of the Land Acquisition Act and what actually is due and payable to the claimants pursuant to the judgment and order passed by this Court in the First Appeals. We are of the considered view that taking into account the scope and ambit of these Writ petitions, going by the reliefs being claimed, it will not be appropriate and rather unnecessary to go into all such calculations. Admittedly, the matter is now *sub-judice* before the Supreme Court in the form of Special Leave Petitions by the claimants and the acquiring body as well. Therefore, the propriety demands that this Court having become *functus officio vis a vis* the First Appeals are concerned, does not enter into that arena.

10. We are only called upon to examine the alleged highhanded action of the respondents in moving the things compelling the respondents/banks to seize the accounts of the petitioners by exerting influence. Assuming that the claimants had withdrawn some excess amount to which they are not actually entitled to, it is indeed startling that the government

machinery has moved into action requiring the respondents/banks to seize accounts. In fact, it was a matter between banks and its clients. In the normal case scenario, this would seem to be indeed a highhanded action of the government machinery.

11. However, the facts and circumstances in the matter in hand are such that, even if the action of the respondents is *de hors* the provisions of any law, it would not be appropriate for the writ court to overlook the circumstances in which the government machinery had to move.

12. Admittedly, the claimants had not withdrawn the complete amount of compensation which was lying in this Court till the First Appeals were disposed of. As is mentioned herein above, this was, in spite of the fact that the Supreme Court had permitted them to withdraw the entire amount of compensation. Admittedly, the First Appeals were thereafter decided finally. The amount of compensation that was deposited by the acquiring body in this court was pursuant to

the calculations made in accordance with the rate of compensation that was enhanced by the reference Court to Rs.115/- per sq.ft. for N.A. potential land and Rs.100/- per sq.ft. for other land. In the First Appeals, this rate was reduced to Rs.75/- per sq.ft. and Rs.60/- per sq.ft. Obviously, this would necessitate a fresh calculation in view of such drastically reduced rate of compensation. Admittedly, without there being any further order solicited from this Court in the disposed of First Appeals, the Special Land Acquisition Officer directly communicated with the Registry of this Court and the claimants were allowed to withdraw the amount of compensation which stood deposited in this Court.

13. As we have said earlier, it will not be appropriate for this Court to undertake a further exercise of making calculations in these Writ Petitions when this Court has become *functus officio* to the extent of the decisions in the First Appeals and when the parties are already before the Supreme Court. What we intend to note is that, the awards passed by the reference Court were modified by this court in the First

Appeals. It was imperative that there should have been some judicial order thereafter, under which the claimants could have been allowed to withdraw the monies. Even if the order of the Supreme Court had permitted them to withdraw 100% of the compensation, they had not withdrawn that and the First Appeals were decided finally thereafter. In view of such events, in our considered view, the Registry could not have allowed any such withdrawal of compensation once the First Appeals were disposed of. It would have been appropriate that the claimants either should have solicited some order from this court on the judicial side or could have preferred execution before the reference Court. Nothing of the sort seems to have happened.

14. We had called upon the Registry to undertake an exercise to calculate the compensation in accordance with the decision in the First Appeals. It has prepared a chart and has pointed out that the claimants have withdrawn an aggregate of Rs.42,60,08,620/- in excess. We make it clear that we do not intend to recheck the calculations and even it would not be appropriate to do so once the parties are before the Supreme

Court. We only emphasize that going by the calculations, a huge excess amount has been disbursed to the claimants. Without indulging into the causes which led to such disbursement, when it is a matter of public money and when individual interest and public interest are pitted against each other in such matters, the latter should take precedence.

15. We are of the considered view that though the action of the respondents is not in accordance with the rule of law, the propriety demands and the interest of justice would be met if the claimants are directed to bring back the excess money which can be deposited as a fixed deposit so that interest can be earned as a condition precedent for defreezing the accounts.

16. The petitioners in Writ Petition No.4835 of 2020 to whose accounts the monies have been transferred by the claimants also sail in the same boat as that of the claimants. According to us, even to their extent, a similar direction can be issued asking them to return the money which they have

received from the claimants as a condition for defreezing their accounts.

17. We allow both these Writ Petitions partly. The respondents are directed to defreeze the accounts of the petitioners in both these Writ Petitions, subject to the condition that they bring back and deposit the money in this Court according to the chart prepared by the Registry marked as 'X' for the purpose of identification and after confirming the fact from the Registry of this Court.

18. To enable the petitioners to comply with the aforementioned condition, the respondents shall permit them to make necessary compliance and follow procedural formalities so that the monies can be transmitted back to this Court.

19. Rule is partly made absolute in terms of the above order.

(R.G. AVACHAT, J.)

(MANGESH S. PATIL, J.)

KBP