

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9388 OF 2021

Syed Saifuddin s/o Syed
Sayeeduddin Quadri

... Petitioner

Versus

The State of Maharashtra and others

... Respondents

...

Mrs. A. N. Ansari, Advocate for the petitioner.

Mr. S. B. Yawalkar, AGP for respondent no.1 - State.

Mr. A. V. Indrale - Patil, Advocate for respondent nos.2 and 3.

...

CORAM : DIPANKAR DATTA, C.J. AND
SMT. VIBHA KANKANWADI, J.

DATE : NOVEMBER 15, 2022.

ORDER :- [Per Smt. Vibha Kankanwadi, J.]

. Heard learned Advocate Mrs. A. N. Ansari for the petitioner, learned AGP Mr. S. B. Yawalkar for respondent no.1 - State and learned Advocate Mr. A. V. Indrale - Patil for respondent nos.2 and 3.

2. Petitioner claims that he is the Inamdar of Gut No.114, admeasuring 07 H 62 R of Darga Hazrat Tajuddin Hamvi, Kotwalpura, Aurangabad. Land admeasuring 2.1776 H was acquired for expansion of road under National Highway Authority and the final award was

passed on 05.10.2018 by respondent no.2. Petitioner has been granted Succession Certificate by Atiyat Collector. It is stated that initially the proceedings for succession was filed on the death of Syed Qamoruddin s/o Syed Mahboob Pasha alias Auliya Pasha Sajjada in the year 1973 by his sons Syed Qutuboddin, Syed Sayeeduddin and Syed Ghouse. During the pendency of that proceedings, Syed Sayeedoddin expired on 18.05.1982 and his legal heirs were brought on record. At the time of passing order on 26.06.1986, names of those legal heirs were not included in the certificate and, therefore, the amendment order came to be passed on 21.04.1995. It has been then sated that the cash grant proceeding was finalized on 29.08.1986. The cash grant is given to the person, who is actually performing the duties to the religious institution and it is said that it has been granted in favour of the petitioner. In the year 1988, some portion of the land situated at Manegaon village was acquired for Girija Medium Project, compensation was awarded and cash allowance was granted in favour of the petitioner vide order dated 25.09.1994. It clearly states that it is granted @8% on the original compensation amount. It is then stated that on 27.03.2019, respondent no.2 has passed order that 8% amount on the interest amount should be paid to the Inamdar/Mutawalli. Respondent no.2 has passed the order in which it is stated that amount of Rs.1,06,22,978/- has been deposited

with Tahsildar in Endowment Account. The application was submitted by the petitioner on 09.12.2019 for correction of the award. The said order dated 27.03.2019 has not been implemented and hence, he has filed the writ petition.

3. Affidavit-in-reply has been filed on behalf of respondent no.2.

4. It is to be noted that the competent authority - respondent no.2 has passed an order on 27.03.2019, however, the present petitioner was not before the said authority. No doubt, there appears that the order dated 25.09.1994 was passed by the Divisional Commissioner stating that the amount of cash allowance @8% of compensation has been sanctioned in favour of Mutawalli - the present petitioner. Petitioner is also supporting his claim by Government Resolution dated 22.11.1978, however, as aforesaid, at the time of passing of the said order dated 27.03.2019, the present petitioner was not before the competent authority, but the present petitioner approached Tahsildar on 09.12.2019. It appears that he had annexed certain documents along with the said application. When the corollary that appears from perusal of the document that the petitioner had not approached the appropriate authority, unless he would approach that authority, the order cannot be put to implementation. Hence, we pass following order while disposing

of the writ petition :-

ORDER

i) Petitioner is given liberty to file appropriate application for grant of cash allowance to the competent authority i.e. respondent no.2. Petitioner is at liberty to produce all the documents to support his claim.

ii) All points are kept open.

iii) Such application to be made by the petitioner to respondent no.2 - competent authority within a period of two weeks from today.

iv) After such application is made, the competent authority i.e. respondent no.2 to decide it within a period of two months, on its own merits.

[SMT. VIBHA KANKANWADI, J.]

[CHIEF JUSTICE]

scm