

rkmore

Digitally
signed by
RAJSHREE
KISHOR
MORE
Date:
2022.05.06
16:48:08
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2797 OF 2019

Ghanshyamji Baluramji Agarwal]
(Since deceased) Through LR & Ors.] .. Petitioners

vs.
The State of Maharashtra]
Through Chief Secretary & Ors.] .. Respondents

Mr.Gaurav Potnis i/b Pallavi Potnis for Petitioners.
Smt.M.P. Thakur, AGP for State.
Mr.Yogesh Patil i/b Mr.Vijay Patil, for Respondent No.4.

CORAM : S.V. GANGAPURWALA &
M.G.SEWLIKAR, JJ

DATE : 6TH MAY, 2022.

P.C.

1] An award under Section 28A(2) of the Land Acquisition Act is passed in favour of the Petitioners on or about 16.03.2016. The present Petition is filed seeking direction against Respondents to pay the amount as per Award.

2] We have heard the learned counsel for the Respondents. The learned counsel for Respondent No.4 submits that Respondent No.4 is not Acquiring Body. Whereas, the contention of the learned counsel for the Petitioners is otherwise.

3] Be that as it may, the State is a Party to the Award. The amount has to be paid. It is for the State to direct the Acquiring Body to deposit the amount. The principal liability of the State exists to deposit the amount.

4] It is submitted that an Appeal is filed against the Award passed under Section 18 of the Land Acquisition Act pursuant to which the Petitioners have filed proceedings under Section 28A of the Land Acquisition Act. It is submitted that no stay has been granted by this Court in the said Appeal.

5] Almost six years have lapsed, the Award under Section 18 is passed. The amount of compensation is not paid as per the Award. At the same time, the rights of the Respondents will have to be protected. The balance will have to struck. In the light of that, we pass following order :

i] The Respondent/State and its Authorities shall deposit the amount as per Award passed under Section 28A(2) of the Land Acquisition Act with the statutory benefits as applicable, preferably within 9 months from today with the Sub Divisional Land Acquisition Officer.

ii] Upon the amount being deposited, the Petitioners are permitted to withdraw the amount upon following conditions :

a] The Petitioners shall submit an Undertaking to the extent of 25% of the amount to the effect that in case Petitioners are directed to deposit that amount, they will deposit it within one month.

b] The Petitioners are allowed to withdraw 50% of the

amount on submission of solvent security of the like amount to the satisfaction of the Sub Divisional Land Acquisition Officer..

c] The Petitioners are permitted to withdraw the remaining 25% of the amount on submission of a bank guarantee of a nationalized bank.

d] The aforesaid withdrawal naturally would be subject to further decision that may be taken in Appeal filed by the Respondents before this Court against the Award passed under Section 18 of the Land Acquisition Act, pursuant to which Petitioners filed proceedings under Section 28A of the Land Acquisition Act.

iii] Writ Petition is disposed of. No costs.

[M.G.SEWLIKAR, J]

[S.V.GANGAPURWALA,J]