



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

WRIT PETITION NO. 2081 OF 2023

WITH

WRIT PETITION NO. 2080 OF 2023

WRIT PETITION NO. 2082 OF 2023

**MANIK AMRUTA PAWAR DIED LRS GODAWARI MANIK PAWAR
DIED LRS MINABAI DATTU SHAHAPURE AND OTHERS**

VERSUS

**THE STATE OF MAHARASHTRA
THROUGH THE COLLECTOR AND ANOTHER**

...

Advocate for Petitioners : Mr. Rakhunde Pravin B.
AGP for Respondent No.1/State : Mr. S.M. Ganachari

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CORAM : SHAILESH P. BRAHME, J.

DATE : 20th DECEMBER 2023.

Per Court :

. Heard learned Counsel for the petitioners and learned AGP for respondent no.1 in all matters. Though the respondent no.2 is served with notice of final disposal of the matter, non appears on his behalf. These petitions are taken up for final disposal.

2. These petitions are preferred against the orders passed by the Executing Court, refusing the petitioners to withdraw amount to the extent of their shares that is 25% each.

3. Manik Amruta Pawar is the owner of the lands which are acquired by the respondents. Awards were passed by the Special Land Acquisition

Officers. Against that three land acquisition references were filed. The reference Court enhanced the compensation. The claimant has taken up execution. The respondent no.1 deposited amount of compensation in the three different execution proceedings.

4. The original owner Manik died and he is survived by his wife Godawari, three daughters namely petitioner no.1/Minabai; petitioner no.2/Shailabai; petitioner no.3/Raubai and a son, respondent no.2/Balaji. Widow of Manik, Godawari also died. Three daughters and a son are the heirs who are entitled to compensation deposited before the Executing Court.

5. The petitioners and the respondent no.2 filed application for disbursement of the amount deposited by the respondents in the Executing Court. It was allowed but the amount could not be disbursed due to non-cooperation of the respondent no.2. The grievance of the petitioners is that the respondent no.2 is not cooperating with them and denying their right to receive the compensation.

6. The petitioners filed application (Exhibit-9) before the Executing Court seeking permission to withdraw the amount to the extent of their shares. That application was rejected by order dated 16.03.2022. Thus learned Counsel submits that all the four heirs are entitled to receive compensation to the extent of 25% each. Just because the respondent no.2 has preferred to contest the right of the petitioners cannot be a ground to deny share of the petitioners.

7. The learned AGP does not have any serious objection for disbursing the amount as per their shares.

8. It reveals that there is no dispute about the entitlement of the petitioners and the respondent no.2. They are entitled to have equal share in the compensation. The respondent no.2 though served, preferred not to appear before the Court. I do not see any point and purpose in denying rights of the petitioners' daughters to the extent of their shares in compensation.

9. Learned Executing Court committed perversity in rejecting their application to receive the compensation to the extent of their shares. The entitlement and the share is not under dispute. The application submitted by them deserves to be allowed. I therefore, pass following order.

ORDER

(i) Order dated 16.03.2022 passed below Exhibit-9 in Special Darkhast No.33/2021 in Writ Petition No.2081/2023, is quashed and set aside.

(ii) Order dated 16.03.2022 passed below Exhibit-9 in Special Darkhast No.34/2021 in Writ Petition No.2080/2023, is quashed and set aside. Application at Exhibit-9 stands allowed.

(iii) Order dated 16.03.2022 passed below Exhibit-9 in Special Darkhast No.41/2021 in Writ Petition No.2082/2023, is quashed and set aside.

(iv) Application at Exhibit-9 stands allowed.

(v) The petitioners shall be disbursed the amount deposited before the Executing Court to the extent of 25% of their shares each.

[SHAILESH P. BRAHME, J.]

Najeeb.