

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

934 WRIT PETITION NO.8881 OF 2021

DADARAO BABURAO TAMBARE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. S.B. Bhosle
AGP for Respondents 1-4 : Mr. P K Lakhotiya

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CORAM : NITIN W. SAMBRE & S. G. CHAPALGAONKAR, JJ.
Dated: March 23, 2023

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PER COURT :-

1. The land of the petitioners was acquired pursuant to section 4 notification issued on 27th August, 2009 and award under section 11 came to be passed on 23rd September, 2010.

2. It is the case of the petitioners that, possession of the land was taken on 21st January, 2004 and as such from the date of possession till the date of award, the petitioners are entitled for rental compensation with interest. It appears that the petitioners have approached this Court with the aforesaid prayer in Writ Petition No.10273 of 2019 decided on 20th August, 2019 wherein this Court has directed the respondents authorities to decide the aforesaid claim, if so preferred with comprehensive application.

3. Accordingly, the authority i.e. the Deputy Collector of Land Acquisition has passed an order on 25th September, 2020 thereby directing that the petitioners should be paid rental compensation under section 34 of the Act of 1894 after verifying the date of taking possession, ownership in compliance with the order of this Court.

4. Learned counsel for the petitioner in the wake of aforesaid background viz. Section 4 notification dated 27th August 2009, award dated 23rd September, 2010 and advance possession of the land being taken on 21st January, 2004 claims payment of rental compensation alongwith interes w.e.f. 21st Januaruy, 2004 i.e. date on which possession was taken.

5. So as to substantiate their claim that the petitioners are entitled for grant of rental compensation with interest support is drawn from the judgment of this Court delivered on 7th October, 2014 in Writ Petition No.6982 of 2013 with connected writ petition no.6983 of 2013.

6. While countering the aforesaid submissions, learned AGP would urge that the petitioners were paid interest @ 9% under section 28 of the Act from 21st January, 2004 till 20th January,

2005 i.e. for a period of 12 months and 15% from 21st January, 2005 till 20th February, 2018 i.e. for 157 months. Accordingly, it is claimed that, even if independent rental compensation is not paid, the aforesaid amount of interest paid to the petitioners sufficiently discharges the liability of payment of rental compensation.

7. We have appreciated the aforesaid submissions.

8. The fact remains that, in the case in hand the petitioners are paid rental compensation and aforesaid interest is not a fact in dispute. Under the provisions of section 23 no doubt petitioners are entitled for the interest @ 12% p.a. from section 4 notification in case of award being passed. However, in view of the advance possession by negotiations being taken by the respondent authorities, there appears to be payment of interest @ 9% and 15% under section 28 of the Act, as referred above.

9. Apart from above, interest under section 34 of the Act is also appears to have paid which comes to around 2,92,568/- and Rs.25,444/- in addition to the interest referred above under section 28 of the Act.

10. In this background, we have called upon learned counsel for the petitioners to justify their claim as to the entitlement of the rental compensation with interest, to which we are unable to get any satisfying/convincing explanation.

11. In view of above, we do not see any reason which warrants grant of relief claimed in the petition. Petition is accordingly devoid of merits, stands dismissed.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

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