

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

5 WRIT PETITION NO.8386 OF 2022

PRADIP BABASAHEB KADAM AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS

...

Advocate for Petitioners : Mr. Shekade Shashikant E.
AGP for Respondents/State : Mr. PK. Lakhotiya
Advocate for R/5 : Mrs. Sudha Kulthe

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CORAM : RAVINDRA V. GHUGE &
Y.G. KHOBRAGADE, JJ.
DATE : 20th September, 2023

PC. :-

1. The Petitioners have put-forth prayer clause-B, C and D as under:

“B. Issue of writ of mandamus or any other appropriate writ or order against respondents to complete the acquisition proceeding and to pass award U/Sec. 25 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act 2013 r/w. The National Highway Act 2013, in respect of acquired lands of the petitioners as prescribed in para no.3 of the Writ Petition which is used for the Project of National Highway No.752-E.

C. Issue writ of mandamus or any appropriate writ or order against the respondents that they shall passed Rehabilitation and Resettlement of award for the benefit of the petitioners and his family, being affected family, U/Sec. 31 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation

and Resettlement Act 2013. In respect of acquired land of the petitioners as described in para no. 3 of this Writ Petition which is used for the Project of National Highway No.752-E.

D) Pending hearing and final disposal of the writ petition the respondent's no. 3 to 5 be directed to pay to the petitioners 80% compensation of the acquired land, within a period of four weeks from today as per revealing ready reckoner rate.”

2. We have considered the submissions of the learned advocates for the respective sides and have perused the affidavit in reply dated 21.06.2023, filed by Respondent No.3. So also, an additional reply is filed on 18.09.2023 by Dr. Priyanka Patil, Deputy Collector, Employment Guarantee Scheme, Beed.

3. There is no dispute that the National Highway 752-E is now constructed pursuant to the publication of the notification dated 31.01.2017. A joint measurement of the land was conducted with regard to the lands of the Petitioners at village Ukhanda Chakla. An area of 15 meters land was excluded. Writ Petition No.9337/2021 was filed. The said petition is pending. Excluding the said 15 meters land, a joint measurement was conducted on 04.06.2021. The Petitioners are agreeable if the proposal for acquisition is forwarded based on such measurement. Insofar as the 15 meters land is concerned, they are willing to await a decision in Writ Petition No.9337/2021.

4. The learned advocate representing the Competent Authority relies on the affidavit in reply to contend that consent letters from the land holders as well as the search reports, are yet to be received from the acquiring body.

5. We direct that these formalities, notwithstanding that the Petitioners are already consenting that their lands be subjected to the acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; shall be completed within 60 days from today. Thereafter, if any land of the Petitioners is noticed to be acquired for the national highway, a proposal would be forwarded by the competent authority/National Highway authority to the District Collector within 60 days. Upon receipt of the proposal, the concerned authority shall initiate proceedings for acquisition under the 2013 Act and would complete the said proceedings within the timeline as is prescribed.

6. **This petition is, therefore, disposed off** in the light of the above directions.

7. A coordinate bench of this Court was concerned with the fact that Respondent No.3-Competent Authority and District Collector, Land Acquisition Minor irrigation, NH 752-E, Beed was not responding to the notices of the Court. Hence, on 06.09.2023, we passed the following order:

“1. On 22.12.2022, this Court (Coram: Mangesh S. Patil and Y. G. Khobragade, JJ.) had passed the following order:

"2. In spite of the appearance, the respondent Nos. 3 and 5 have not filed any response. None is present for them when the matter is called out. By way of last indulgence, we adjourn the matter to 02.02.2023 directing them to file the reply. If no reply is filed by the next date, the respondent Nos. 3 and 5 shall remain personally."

Neither was a reply filed on 02.02.2023, nor did Respondent Nos. 3 and 5 remained present.

2. *The learned Standing Counsel informs us that Respondent No.5 filed the affidavit in reply within the time allotted.*

3. *On 24.04.2023, this Court (Coram: Nitin W. Sambre and S. g. Chapalgaonkar, JJ.), once again granted adjournment to enable Respondent no.3 to file a reply. On 4th May, 2023, this Court (Coram: S. V. Gangapurwala, Acting C.J. and Nitin W. Swambre J.) granted one more last chance and posted the matter to 22.06.2023.*

4. *The learned Standing Counsel submits that though para-wise comments are received by her, no documents were supplied. She submits that Respondent No.3 (Priyanka Patil) was not present before the Court. On 06.09.2023, we posted this matter for passing orders.*

5. *The learned Standing Counsel submits that now the affidavit in reply of Respondent No. 3 is ready. Office to accept the affidavit in reply. Respondent No.3 Ms. Priyanka Patil shall remain present before this Court on 20.09.2023 to explain as to why we should not initiate steps for disobedience of the orders of this Court referred to in the foregoing paragraphs.*

6. *Stand over to 20th September, 2023, in the urgent orders category.”*

8. In the additional affidavit filed by the present Deputy Collector, EGS, Beed, it is stated that the earlier orders of this Court were served upon Shri Machindra Sukte who was transferred on 11.04.2023 to Sindhudurg. The present Deputy Collector, Dr. Priyanka Patil was given the additional charge on 12.04.2023. On 24.04.2023, this Court granted adjournment to Respondent No.3 to file reply. On 04.05.2023, one more chance was granted. In pursuance to the same, she filed the affidavit in reply on 21.06.2023.

9. In view of the above, we direct the District Collector, Beed to call for an explanation from Shri Machindra Sukte as to why the orders of this Court dated 22.12.2022 and the further orders, were ignored by him. After receiving an explanation from Mr. Sukte within 45 days from today, the District Collector would deal with the said issue by following the due procedure laid down in law and pass appropriate orders. The compliance report of the above direction shall be placed before this Court on or before 03.11.2023.

10. Insofar as Dr. Priyanka Patil is concerned, as she has joined on 12.04.2023 and she has filed the affidavit in reply on 21.06.2023, her explanation and her apology is accepted.

[Y.G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]