

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.13896 OF 2021**

**MEERABAI SANTOSH PATIL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Mr. Yogesh R. Neb h/f Mr. A. B. Kale, Advocate for the Petitioner.
Mr. S. S. Dande, AGP for Respondents-State.
Mr. A. D. Pawar, Advocate for Respondent Nos.3 and 4.
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**CORAM : SHARMILA U. DESHMUKH, J.
DATED : 27th FEBRUARY, 2023.**

PER COURT:-

1. By this petition, the petitioner seeks to challenge the order dated 25.08.2021 passed by the Executing Court in Regular Darkhast No.1074/2019 rejecting the petitioner's application for issuance of the notice to the Principal Secretary, Department of Water Resources, Mumbai.
2. Learned counsel for the petitioner submits that as regards the prayer Clause (B) is concerned a proper mandamus will be sought by way of separate writ petition and the present petition is confined to the challenge to the impugned order dated 25.08.2021 passed by the Executing Court.
3. This Court is pained to see the fate of the petitioner whose land has been acquired and in spite of compromise award being passed before the Lok Adalat, the petitioner is made to run from pillar to post for seeking amount of compensation. The respondents are shifting the blame to one another in as much as the learned A.G.P. submits that it is for the Acquiring Body to

submit a proposal to the State Government and Acquiring Body states that in spite of the proposal being sent, the amount of compensation is not been released by the State Government. In this situation, it is the petitioner who is being made to suffer. The Acquiring Body as well as the State Government ought to have worked in tandem to ensure that the amount of compensation is paid to the petitioner especially when the compromise award has been executed before the Lok Adalat. There is some sanctity and finality to the compromise award, and the act of the respondents cannot be said to be justified.

4. By the impugned order the petitioner sought issuance of notice to the Principal Secretary, Department of Water Resources, Mumbai by reason of the Government Resolution dated 26.07.2021, which directed that the concerned compensation amount would be made available within a period of six months. This Government Resolution was issued to ensure that the matters were settled before the Lok Adalat. In spite of this specific Government Resolution, the respondents have failed to comply with the Government Resolution and the amount of compensation has not been deposited. By that as it may. In the present case what is required to be examined is order below Exhibit-19 i.e. issuance of the notice to the Principal Secretary, Department of Water Resources, Mumbai. The Executing Court has observed that it is not necessary for the notices to be issued to the Principal Secretary as the ground for preferring the application is the order of this Court in Writ Petition Nos.738 to 753 and 7086 of 2008, wherein this Court had held that the notice to the Principal Secretary can be issued for depositing the

awarded amount as he approves the disbursement of the amount of compensation in LAR matters.

5. In my view, the order of this Court in Writ Petition No 738 to 753 and Writ Petition No 7086 of 2008, cannot be made the basis of seeking issuance of notices to the Principle Secretary. Before the Executing Court the Collector and the Executive Engineer are parties and the petitioner is at liberty to seek attachment and/or detention of the judgment debtor in the civil prison in accordance with the provisions of the Code of Civil Procedure. In my opinion, the impugned order rejecting the application for issuance of notice to the Principal Secretary cannot be faulted with.

6. In light of the above facts, the petitioner is at liberty to proceed with the execution application against the Collector and the Executive Engineer of the Acquiring Body and seek appropriate reliefs as against them before the Executing Court.

7. Writ Petition stands disposed of in the above terms.

(SHARMILA U. DESHMUKH)
JUDGE