

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1894 OF 2023

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Sachin Suresh Bhange & Anr.

.. Petitioners

Versus

The Union of India & Ors.

.. Respondents

Mr. R. V. Bansode a/w Sheetal M. Ubale *for the Petitioners.*

Ms. M. S. Bane, AGP *for Respondent Nos. 4 to 8.*

Mr. Rakesh Singh a/w Heena Shaikh i/b. M. V. Kini & Co. *for the Respondent No.2 & 3.*

Mr. Namdeo D. Tilekar, *Sub Divisional Officer, Akulj Division, Malshiras is present in Court.*

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : DECEMBER 18, 2023

P. C.

1. Rule. The learned AGP for Respondent Nos. 4 to 8 and the learned Advocates for Respondent Nos. 2 and 3 waive service. With the consent of parties, rule made returnable forthwith and heard finally.

2. The above Writ Petition is filed seeking a direction to the Respondent Authority and more particularly Respondent No.4 [the

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DECEMBER 18 2023

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Competent Authority, Land Acquisition] to disburse/release forthwith in the account of the Petitioners, the amount of Rs. 2,21,59,622/- as per notice dated 8th June, 2020 along with interest 12% p.a. thereon with effect from 8th June, 2020 till realization.

3. The facts of the present case reveal that the property of the Petitioners was acquired under the provisions of the National Highways Act, 1956 [for short '**NH Act**'] and possession of their land has also been taken over. The National Highway of India, namely, Respondent No.2 and 3, for the aforesaid acquisition, has also deposited the requisite compensation with the Competent Authority [Respondent No.4]. An award under Section 3G is also passed as far as back on 14th January, 2019. Thereafter, Respondent No.4 issued notice to the Petitioners and other co-sharers under the provisions of Section 3G, 3H and 3E of the NH Act mentioning therein that the Award is passed on 14th January, 2019 and the land admeasuring about 1.6625 Hectares is acquired from Gat No. 115 and for which the amount of Rs. 2,21,59,622/- is payable. Since no payment has made till date, the present Writ Petition is filed on or about 3rd January, 2023.

4. Ms. Bane, the learned AGP, on instructions of Respondent No.4 who is present in Court, has stated that the amount of compensation of Rs.

2,21,59,622/- shall be disbursed within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

5. The only question that now remains is for payment of interest. Ms. Bane submitted that there is no provision under the NH Act for payment of any interest. She submitted that in any event there was a delay in making payment of interest because the Petitioners had submitted an Affidavit-cum-NOC of the co-shares of Gat No. 115 and the signature of one Nitin Suresh Bhange was not obtained. This was finally submitted in February, 2022. The other ground on which the payment was not made was because it was found that the area admeasuring 0.81 HR was acquired along the road in the name of District Rehabilitation Officer and therefore the Competent Authority wrote a letter to the District Rehabilitation Officer, Solapur seeking clarification whether the land from Gat No. 115 comes under the acquired area or not. Finally, the Deputy SLR by his communication dated 2nd August, 2022 informed the Competent Authority that the area of DRO Office is not acquired as per the joint measurement report. This is the justification sought to be given for not releasing the payment in time.

6. After perusing the papers and proceedings, we are of the opinion that even if we accept what is stated in the said affidavit as a gospel truth, we

find that there is absolutely no justification for not making the payment after 2nd August, 2022. We find that this Officer, namely, Respondent No.4 has wrongly withheld the amount payable to the Petitioners atleast after 2nd August, 2022. The State cannot take advantage of its own wrong and thereafter plead that there is no provision in the NH Act for awarding interest. In these circumstances, the State is directed to pay interest on the amount of Rs. 2,21,59,622/- @ 9% p.a. from 3rd August, 2022 till 2nd August, 2023 and thereafter @ 15% p.a. from 3rd August, 2023 till payment and/or realization. The payment of interest shall be done within a period of four weeks from today.

7. Rule made absolute in the aforesaid terms and the Writ Petition is disposed of in terms thereof. No order as to costs.

8. Though we have disposed of the above Writ Petition, we place the same on board for reporting compliance, firstly on 3rd January, 2024.

9. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]