

24 January, 2023.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1716 OF 2022**

Maruti Nivruti Pawar and Ors.

.....Petitioners

V/s.

Hanumant Nanasaheb Pawar

and Ors.

....Respondents

Mr. V.S. Kapse i/by. Mr. Shailesh Chavan, Advocate for the
petitioners.

Mr. S.M. Gorwardkar, Senior Advocate i/by. Mr. Sujay H. Gangal
a/w. Mr. Anil Holkar, Advocate for respondents no.1, 2 and 3.

Mr. P.G. Sawant, AGP for State-respondents no.4 to 7.

Sandip Maruti Pawar (son of petitioner no.1-Maruti Pawar) and
Ganesh Mahadeo Pawar, (grandson of Bhanudas Pawar)
present.

CORAM : SANDEEP V. MARNE, J.

TUESDAY, 24 JANUARY, 2023.

P.C. :

1. Petitioners assail order dated 20 October, 2021 passed by the Civil Judge Senior Division, Baramati on application at Exhibit-52 filed by the plaintiffs/respondents. By that order, the trial Court has restrained the petitioners from withdrawing the

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compensation amount standing in their bank accounts, which is frozen by the Sub-Divisional Officer till the decision of the suit. Further direction is given to the Sub-Divisional Officer to take steps for re-transferring the amount transferred to the accounts of petitioners to Government's account.

2. The dispute between petitioners and respondents no.1 to 3 is essentially about the exact land which is acquired for construction of Highway. In the acquisition proceedings, land bearing Gat Nos. 82, 83 and 86, are shown to have been acquired. Those lands bearing these Gat Nos. apparently belong to the petitioners. On the other hand, it is the contention of respondents no.1 to 3 that what is actually and physically acquired is the land bearing Gat Nos. 80/1 and 80/2 which is owned by respondents no.1 to 3. The trial Court is seized of this dispute.

3. Mr. Gorwadkar the learned senior advocate appearing for respondents no.1 to 3 places reliance on the panchanama drawn in August, 2018 which records that Gat Nos. 80/1 and 80/2 about the Highway and not Gat Nos. 82, 83 and 86. It is further recorded in the panchanama that respondents no.1 to 3 are in possession of said lands bearing Gat Nos.80/1 and 80/2. Mr. Kapse, learned Counsel appearing for the petitioners disputes correctness of the panchanama. He further submits that, the Sub-Divisional

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Officer who is shown to have drawn the panchanama, has not supported the same in the Written Statement filed in the suit nor the panchanama bears his signature. Be that as it may. This is something which the trial Court would determine at the time of final hearing of the suit.

4. In the light of the nature of the controversy which is pending before the trial Court, a direction is issued to secure the amount which has already been transferred in the accounts of the petitioners towards compensation. The total amount of compensation paid to the petitioners is Rs.66,86,343/-. Mr. Kapse, submits that as on today an amount of Rs.40,46,343/- is is being reflected as balance in the accounts of the petitioners, which have been frozen.

5. Since the controversy involved before the trial Court is about the exact property that is acquired and who is entitled for compensation, in my view, the trial Court has correctly passed the order securing the amount till the final decision of the suit. Resultantly, I do not find any error being committed by the trial Court in passing the order dated 20 October, 2021.

6. In these circumstances, the ends of justice would meet if the trial Court is requested to expedite the hearing of the suit, so

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that the controversy raised before it is decided in an expeditious manner and the persons who are actually entitled for compensation, receive the same. However there is only one area where some interference by this Court may be warranted. The trial Court has directed the Sub-Divisional Officer to ensure re-transfer of the amounts paid to petitioners to the accounts of the Government. In my view, instead of reverting the amounts to the accounts of the Government, it would be more appropriate if the amounts are deposited in the trial Court and invested during pendency of the suit, so that the parties who ultimately succeed before the trial Court, would be in a position to withdraw the same from court rather than chasing government authorities for its disbursal.

7. From the statement made by Mr. Kapse, it appears that the entire amount of compensation of Rs.66,86,343/- is not available in the accounts of the petitioner and only an amount of Rs.40,46,343/- is available. However in his usual fairness, Mr. Kapse, on instructions from his clients who are present in the Court submits that petitioners are willing to give an undertaking to bring back the amount of Rs.26,40,000/- (difference between the amount of total compensation and the amount that is reflected as balance in Petitioners' accounts today).

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8. I accordingly, proceed to pass the following order :

(i) Order dated 20th October, 2021 passed by the Civil Judge Senior Division, Baramati is upheld, except with a modification that petitioners shall deposit amount of Rs.40,46,343/- before the trial Court within a period of 4 weeks from today. The trial Court shall invest the amount in fixed deposits in nationalised bank till the decision of the suit.

(ii) Petitioners to file an undertaking before the trial Court to bring back the amount of Rs.26,40,000/- alongwith interest in the event respondents no.1 to 3/plaintiffs succeed in the suit.

(iii) The trial Court is requested to expedite the hearing of Regular Civil Suit No.165/2021 and to make an endeavor to decide the same as expeditiously as possible, preferably within a period of one year.

9. With the above directions, the Writ Petition is disposed of.

Digitally
signed by
NEETA
SHAILESH
SAWANT
Date:
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(SANDEEP V. MARNE, J.)