

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2407 OF 2021

Suchita Ramchandra Lavate & Anr.

..... Petitioners

VERSUS

The State of Maharashtra & Ors.

..... Respondents

WITH

INTERIM APPLICATION (ST) NO.11320 OF 2023

IN

WRIT PETITION NO. 2407 OF 2021

Abhijeet Ramesh Khadakban & Ors.

..... Applicants

IN THE MATTER BETWEEN

Suchita Ramchandra Lavate & Anr.

..... Petitioners

VERSUS

The Competent Authority &

The Sub-Divisional Officer, Ulhasnagar & Ors. Respondents

AND

INTERIM APPLICATION (ST) NO. 10230 OF 2023

IN

WRIT PETITION NO. 2407 OF 2021

Mahendra Janardan Lavate & Ors.

**..... Applicants/
Intervenors**

IN THE MATTER OF

Suchita Ramchandra Lavate & Ors.

..... Petitioners

VERSUS

The State of Maharashtra & Ors.

..... Respondents

WITH

CONTEMPT PETITION NO. 30 OF 2021

IN

WRIT PETITION (ST) NO. 5498 OF 2020

Suchita Ramchandra Lavate	 Petitioner
VERSUS	
Rajesh J.Narvekar,	
The District Collector, Thane & Ors.	 Respondents

WITH
INTERIM APPLICATION (ST) NO. 7928 OF 2023
IN
CONTEMPT PETITION NO. 30 OF 2021
IN
WRIT PETITION (ST) NO. 5498 OF 2020

Abhijeet Ramesh Khadakban & Ors.	 Applicants
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IN THE MATTER BETWEEN

Suchita Ramchandra Lavate & Anr.	 Petitioners
VERSUS	
Rajesh J.Narvekar,	
The District Collector, Thane & Ors.	 Respondents

WITH
INTERIM APPLICATION NO. 18272 OF 2022
IN
WRIT PETITION (ST) NO. 5498 OF 2020

Vidyadhar Dattatraya Lavate	 Applicant
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IN THE MATTER BETWEEN

Suchita Ramchandra Lavate & Ors.	 Petitioners
VERSUS	
The District Collector, Thane & Ors.	 Respondents

Mr.Vijay Killedar, a/w. Mr.Sumedh Modak for the Petitioners in Writ
Petition and Contempt Petition.

Mr.Akshay Giri for the Applicants in IAST/11320/2023 and IAST/7928/2023.

Mr.Ashwin R.Kapadnis for the Applicants in IAST/10230/2023.

Mr.Nikhil D.Waje, a/w. Mr.Rohit Ghodge for the Respondent nos. 8 to 12 in Writ Petition.

Mrs.M.S.Bane, A.G.P. for the State in Writ Petition and Contempt Petition.

Mr.Ramchandra Paranjape for the Respondent No.3.

Mr.Sachin Dhakephalkar, i/b. Mr.Akshay Giri for the Respondent Nos. 4 to 6 in Contempt Petition and for the Applicants in IAST/11320/2023 and IAST/7928/2023.

Mr.Abhijit Patil for the Respondent No.2 in Contempt Petition and for the Respondent No.4 in Writ Petition.

IA/18272/2022 and IAST/7928/2023 not on board. Taken on Board.

**CORAM: R. D. DHANUKA AND
GAURI GODSE, JJ.
DATE : 20TH APRIL, 2023**

P.C:-

Interim Application No. 18272 of 2022 not on board. Taken on Board.

2. Rule in Writ Petition No. 2407 of 2021. Learned counsel appearing for the respective parties waive service. Rule is made returnable forthwith. By consent of the parties, writ petition is taken

up on board for final hearing. Writ petition is filed for challenging the order dated 8th January, 2021 passed by the Competent Authority under Section 3H(4) of the National Highways Act, 1956.

3. The grievance of the Petitioners in the petition is with respect to an order passed by the Competent Authority regarding disbursement of the amount pursuant to an award passed under the National Highways Act, 1956. The case of the Petitioners is that they had filed an objection with respect to the disbursement of the amount on the ground that the Petitioners are also entitled to share in the compensation amount having right, title and interest in the property which was under acquisition. There were various orders passed in the writ petition as well as the connected Contempt Petition No. 30 of 2021.

4. Contempt Petition No. 30 of 2021 was filed by the Petitioners alleging breach of an order dated 18th January, 2021 passed in Writ Petition (St) No. 5498 of 2020. The grievance of the Petitioners in the contempt petition was that inspite of the orders passed by this Court, the amounts were disbursed in favour of one Mr.Abhijeet R.Khadakban, Mr.Abhay S. Tawade and Mr.Subhash T. Dalvi. By way

of a common order dated 13th March, 2023, the said three persons were directed to deposit the amount that was received pursuant to the order passed by the Competent Authority.

5. By a common order passed in writ petition as well as contempt petition on 29th March, 2023 we expressed our *prima facie* view that the order passed by the Competent Authority in rejecting the objection and in allowing the disbursement of the compensation amount in favour of the aforesaid three persons is without following principles of natural justice. Learned A.G.P. was directed to take instructions whether the impugned order which is the subject matter of the writ petition can be set aside and fresh order in accordance with law can be passed after complying with the principles of natural justice by some other officer.

6. Learned A.G.P. on instruction states that the objections as well as the claims with respect to the disbursement of the compensation amount will be decided by the new officer after giving opportunity of hearing to all the concerned parties within a period of eight weeks from today. In view of the statement made by the learned A.G.P., all the

parties appearing in the writ petition agree that no separate reasons are required to dispose off the writ petition by issuing necessary directions to the Competent Authority for deciding the dispute with respect to entitlement and disbursement of compensation amount.

7. Mr. Paranjape, learned counsel appearing for Mr.Vidyadhar Lavate states that he has filed an Interim Application No. 18272 of 2022 in Writ Petition (St) No. 5498 of 2020 for recalling the order dated 18th January, 2021 passed in Writ Petition (St) No. 5498 of 2020. He submits that his apprehension is that, in view of the said order, the issue with respect to entitlement of the land bearing survey No. 250/4/ B which is under acquisition will be considered as concluded. A perusal of the order dated 18th January, 2021 shows that the writ petition is allowed in terms of prayer clause (b) with respect to necessary directions to the Competent Authority for taking appropriate decision in respect of referring the dispute as to the apportionment of the amount of compensation. In our view, the said order does not decide any entitlement of any of the parties. Hence, the apprehension expressed by Mr.Paranjape in the application is misconceived. There is no ground made out for recalling and/or review of the order dated 18th

January, 2021. However, we clarify that the order dated 18th January, 2021 in Writ Petition (St) No. 5498 of 2020 does not decide any title with respect to the suit property and/or entitlement with respect to the compensation amount and/or with respect to apportionment of the compensation amount. Since the objections as well as the claims made by the respective parties with respect to the compensation amount is to be decided by the Competent Authority, no separate order is required to be passed in Interim Application filed by Mr.Paranjape.

8. Mr. Dhakephalkar, has filed an Interim Application (St) No. 11320 of 2023 seeking extension of time for depositing the amount of compensation received by Mr.Abhijeet R.Khadakban, Mr.Abhay S. Tawade and Mr.Subhash T. Dalvi. He states that out of the total amount received by the said three persons, amount of Rs.30,00,000/- is already deposited by Mr.Abhijeet R.Khadakban, Rs. 40,00,000/- is deposited by Mr.Abhay S. Tawade and Rs.40,00,000/- is deposited by Mr.Subhash T.Dalvi. He further states that Mr.Abhijeet R.Khadakban will be depositing an amount of Rs.1,53,00,000/- by way of demand draft during the course of the day. He states that therefore, the balance amount to be deposited by Mr.Abhijeet R.Khadakban would be

Rs.29,95,016/-.

9. He further states that Mr.Abhay S.Tawade will be depositing an amount of Rs.11,95,016/- and Rs.1,61,00,000/- during the course of the day and hence in view of the said deposit that would be made today the entire amount due from Mr.Abhay S.Tawade would be completed.

10. He states that Mr.Subhash T.Dalvi will be depositing an amount of Rs.1,37,95,016/- during the course of the day. Hence, in view of the said deposit, the balance amount to be deposited by Mr.Subhash T.Dalvi would be Rs.35,00,000/-. Mr. Dhakephalkar, states that with respect to depositing the balance amount by Mr.Abhijeet R.Khadakban and Mr.Subhash T.Dalvi, they need extension of time till 6th June, 2023. In view of the statement made for depositing the balance amounts, Mr.Abhijeet R.Khadakban and Mr.Subhash T.Dalvi are granted time till 6th June, 2023 to deposit balance amount, as stated above. The statements made by the learned counsel on their behalf that the balance amount would be deposited are accepted by way of an undertaking to this Court.

11. Mr.Dhakephalkar, has produced on record the relevant demand drafts with respect to the aforesaid payments for our perusal. He further states that the said demand drafts would be deposited in the Office of this Court during the course of the day. Office is accordingly directed to accept the said demand drafts during the course of the day.

12. Mr.Dhakephalkar states that since Mr.Abhay S.Tawade has deposited the entire amount that was due from him, the title documents deposited by him in this Court may be allowed to be withdrawn. Since the amount is entirely deposited as stated above, Office is directed to allow Mr.Abhay S.Tawade to withdraw the title documents that are deposited in this Court within a period of one week from today.

13. Mr.Kapadnis has filed Interim Application (St) No. 10230 of 2023 for impleadment of the parties. The said application is filed on the ground that they are also necessary parties and would be entitled to claim their shares from the compensation amount. Since we are passing order in the main writ petition directing the Competent Authority to decide the issue with respect to entitlement as well as disbursement of the compensation amount, separate order is not

necessary for impleadment of those parties in the writ petition. The Intervenor will be at liberty to approach Competent Authority and file their relevant claims/objections.

14. Insofar as contempt petition is concerned, show cause notice is already issued to the contemnor, hence contempt petition will be decided separately. The amounts that are deposited by the respective parties will remain deposited in this Court till any further orders are passed in the contempt petition. After the Competent Authority has passed decision on the claims as well as objections with respect to the disbursement of the amount, depending upon the orders passed by the Competent Authority, the parties are at liberty to make appropriate application in contempt petition with respect to the amounts that are deposited in this Court.

15. For the reasons stated above, Writ Petition No. 2407 of 2021 and Interim Application No. 18272 of 2022 in Writ Petition (St) No. 5498 of 2020 are disposed off in terms of following order :-

- (a) Writ Petition No. 2407 of 2021 is made absolute in terms of prayer clause (b). The Respondent No.1 is

directed to initiate necessary enquiry and pass appropriate order under Section 3(H)(4) of the National Highways Act, 1956 after giving opportunity of hearing to all concerned parties within a period of eight weeks from today.

(b) The Respondent No.1 shall decide the proceedings under Section 3H(4) of the National Highways Act, 1956 in accordance with law and on its own merits without being influenced by the impugned order dated 8th January, 2021. All contentions of all parties are kept open. It is made clear that we have not expressed any views on the merits of the claims and objections of the respective parties. All parties to appear before the Respondent No.1 on 27th April, 2023 at 11.00 a.m. It is made clear that no separate notice for appearance of the parties would be necessary.

(c) The original file with respect to the proceedings which is in the custody of this Court shall be returned

to the learned A.G.P. during the course of the day.

(d) Interim Application (St) No. 11320 of 2023 in Writ Petition No. 2407 of 2021 is allowed and the Applicant Nos. 1 and 3 are granted extension of time till 6th June, 2023 to deposit the balance amount.

(e) Interim Application (St) No. 10230 of 2023 is disposed off in view of the reasons stated above.

(f) Interim Application No. 18272 of 2022 in Writ Petition (St) No. 5498 of 2020 is disposed off in view of the clarification stated in the aforesaid paragraphs.

(g) Writ Petition No.2407 of 2021 is disposed off. Rule is made absolute in above terms. There will be no order as to costs.

(h) Interim Application (St) No. 7928 of 2023 in Contempt Petition No. 30 of 2021 is disposed off as

infructuous.

(i) Office is directed to list contempt petition on board on **15th June, 2023.**

(j) All parties to act on authenticated copy of this order.

[GAURI GODSE, J.]

[R. D. DHANUKA, J.]