

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VASANT
ANANDRAO
IDHOL

Digitally signed by
VASANT ANANDRAO
IDHOL
Date: 2023.04.15
12:34:57 +0530

WRIT PETITION NO.3361 OF 2022

Anjanabai V. Gilbile & Ors.

...Petitioners

V/s.

State of Maharashtra & Ors.

...Respondents

Mr.Gaurav Potnis i/b Mrs.P.H. Potnis for the Petitioners.

Mr.Rajan S. Pawar, AGP for the State – Respondent Nos.1 to 3.

Mr.Madhav V. Thorat for the Respondent No.4.

CORAM : R.D. DHANUKA &
GAURI GODSE, JJ.
DATE : 11TH APRIL, 2023.

P.C. :-

1. Rule. Mr.Pawar, learned AGP waives service for the Respondent Nos.1 to 3. Mr.Thorat waives service for the Respondent No.4. Rule is made returnable forthwith.

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioners seek a writ of mandamus against the Respondents to make payment as per the award declared on 30 November, 2018 along with accumulated interest till the date of payment, as provided under the Land Acquisition Act and seeks further directions to pay interest at the rate of 15% p.a. from the date

of award till the date of payment.

3. Mr.Potnis, learned counsel for the Petitioners relied upon the judgment dated 22 February, 2016 delivered by the Division Bench of this Court in Writ Petition No.11315 of 2013 in case of **Balasaheb Laxman Malshikare & Ors. .vs. State of Maharashtra and Ors.** and submitted that in similar situation, this Court had directed the Competent Authority to pay compensation at the rate of 15% p.a. from the date of award till the date on which the compensation is offered to them. He submitted on instructions that the compensation has not been offered to the Petitioners till date by the Respondents. Statement is accepted. None of the Respondents have disputed this statement made by the learned counsel for the Petitioners.

4. Learned counsel for the Petitioners have already tendered a chart showing calculation of the amount payable in accordance with the award made by the Special Land Acquisition Officer and also showing interest at the rate of 15% p.a. till 30 June, 2023 to the learned AGP.

5. Mr.Thorat, learned counsel for the Respondent No.4 tendered an affidavit in reply on behalf of his client notarized on 11 April, 2023 and submitted that his clients are praying for at least six months period for making payment of compensation and for obtaining

sanction for such payment in favour of the Petitioners. Statements made in paragraph 5 of the affidavit in reply and made across the bar are accepted.

6. In view of the statements made by the learned counsel for the Respondent No.4 on instructions and as recorded in the affidavit, Mr.Potnis, learned counsel for the Petitioners states that he will submit a revised chart showing the calculation of payment payable to the Petitioners with interest at the rate of 15% p.a. from the date of award till payment would be submitted upto 30 October, 2023, within one week to the learned AGP. Statement is accepted.

7. Learned AGP in turn would verify the calculation that would be submitted by the Petitioners and if finds any calculation error in the said statement, the same shall be communicated to the Petitioners within one week thereafter. If there is no error found in the said statement that would be submitted by the Petitioners, the amounts shall be communicated to the Respondent No.4 by the Special Land Acquisition Officer within one week from the date of communication of the calculation by the Petitioners.

8. Statement made by the Respondent No.4 in the affidavit in reply that the entire compensation with interest would be paid to the Petitioners are accepted. The entire amount that would be requisitioned by the Special Land Acquisition Officer shall be

deposited by the Respondent No.4 on or before 1 November, 2023. Statement made on instructions from Mr.Sunil Biradar, Sub-Divisional Officer, who is present in Court, by the learned counsel across the bar and in the affidavit in reply are accepted as and by way of undertaking to this Court.

9. It is made clear that if the Respondent No.4 is unable to deposit the amount of compensation with interest with the Special Land Acquisition Officer on or before 1 November, 2023, the Petitioners would be at liberty to adopt proceedings against the Respondent No.4, including the proceedings under the provisions of the Contempt of Courts Act, 1971 and would be entitled to further interest on the unpaid amount with interest at the rate of 15% p.a. till such amount is deposited by the Respondent No.4 with the Special Land Acquisition Officer. Upon deposit of the amount by the Respondent No.4 to the Special Land Acquisition Officer, the Special Land Acquisition Officer to release such amount in favour of the Petitioners within two weeks from the date of such deposit, without fail.

10. It is made clear that if the Respondent No.4 deposits the amount with the Special Land Acquisition Officer before 30 October, 2023, the liability to pay interest at the rate of 15% p.a. would be calculated upto the date of such deposit.

11. The Writ Petition is allowed in aforesaid terms. Rule is made absolute. No order as to costs. All parties to act on the authenticated copy of this order.

(GAURI GODSE, J.)

(R.D. DHANUKA, J.)