

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11750 OF 2023

Ganpat Anu Kank (Dec)
Sadanand Ganpat Kank & Ors.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

UTKARSH
KAKASAHEB
BHALERAO

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

Mr.R.S.Pawar, AGP for State/Respondent.

**Mr.Ramesh Dube Patil a/w Advait Kulkarni, Faiaz Syed
i/b Jay & Co.**, Advocates for Respondent No.4/MKVDC.

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

DATE : DECEMBER 12, 2023

P. C.

1. The above Writ Petition is filed seeking a direction to the Respondents to make payment as per the Award declared on 24th December, 2018 under Section 28-A of the Land Acquisition Act, 1894 (for short '**the 1894 Act**'). A further prayer is also made for directing the Respondent to pay interest @15% per annum from the date of the Award until the date of payment.

2. We only need to note very brief facts in the present matter. The land of the Petitioners was acquired for the Neera Deoghar Project and the Award came to be passed under Section 11 on 22nd January, 1996. The present Petitioners did not file any Reference under Section 18 of the 1894 Act. However, owners of some other lands covered under the same Section 4 notification, preferred a reference under Section 18, being Reference No.276 of 1997. This Land Reference was disposed of by the Court *vide* its judgment dated 4th April, 2008.

3. The present Petitioners, thereafter, applied for a certified copy of the said judgment of the Reference Court on 6th May, 2008. This certified copy was ready and made available to the Petitioners on 11th August, 2008. Immediately thereafter, on 22nd August, 2008, the Petitioners filed an Application under Section 28-A(1) of the 1894 Act (for short, "**28-A Application**") requesting that the amount of compensation payable to them be re-determined on the basis of the amount of compensation awarded by the Reference Court. This Application was finally decided *vide* order dated 24th December, 2018, which is the Award passed under Section 28-A of the 1894 Act.

4. In the facts of the present case there is no challenge by the acquiring body (Respondent No.4) to the Award passed under Section 28-A. Despite this, we examined the matter and, find that the 28-A Application filed by the Petitioners was within the time frame as set out in the said Section. Once this is the case, we find that the Petitioners herein are entitled to the reliefs sought in the above Writ Petition. The reason we say this is because there is no challenge to the Award by the acquiring body (Maharashtra Krishna Valley Development Corporation- Respondent No.4). Accordingly, the acquiring body will have to deposit the compensation as determined in the 28-A Award dated 24th December, 2018. Since over five years have lapsed, Respondent No.3 shall issue a letter to the acquiring body (Respondent No.4) to deposit the amount under the award passed under Section 28-A, together with interest, within a period of 2 weeks from today.

5. The acquiring body shall thereafter deposit with Respondent No.3, the aforesaid amount, within a period of 16 weeks from the date of receipt of the letter from Respondent No.3. It is made clear that Respondent No.3 shall calculate the interest taking into consideration even the period that we have granted to the acquiring

body for making the deposit with the 3rd Respondent. In other words, interest will be calculated for a period of 18 weeks from today.

6. Once the aforesaid deposit is made, Respondent No.3 shall, within a period of 1 week from the date of deposit, disburse the payment to the Petitioners as determined in the 28-A Award dated 24th December, 2018.

7. Rule is accordingly made absolute in the aforesaid terms. The above Writ Petition is disposed of in terms thereof.

8. Though we have disposed of the Writ Petition, we place it on board for reporting compliance on 30th April, 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.]