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

WRIT PETITION NO.11691 OF 2023

Kamalabai Ganpat More (Dec)
Sushila Namdeo Gunaware

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

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

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

Mr.M.V. Thorat, Advocate 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 11th February, 2019 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 Petitioner was acquired for the Mulla Mutha Canal Project and the Award came to be passed under Section 11 on 12th November, 1986. The Petitioner 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.129 of 1989. This Land Reference was disposed of by the Court *vide* its judgment dated 5th May, 2001.

3. The Petitioner, thereafter, applied for a certified copy of the said judgment of the Reference Court on 11th June, 2001. This certified copy was ready and made available to the Petitioner on 9th October, 2001. Immediately thereafter, on 27th November, 2001, the Petitioner 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 11th February, 2019, 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 Petitioner was within the time frame as set out in the said Section. Once this is the case, we find that the Petitioner herein is 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 11th February, 2019. Since over four 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 Petitioner as determined in the 28-A Award dated 11th February, 2019.

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.]