



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

3 CIVIL APPLICATION NO. 8582 OF 2024
IN WP/9699/2023

SURYAKANT VASUDEO PATE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE SECRETARY
AND OTHERS

WITH

CIVIL APPLICATION NO. 13882 OF 2023
IN WP/9699/2023

THE EXECUTIVE DIRECTOR TAPI IRRIGATION DEVELOPMENT
CORPORATION JALGAON AND ORS

VERSUS

SURYAKANT VASUDEV PATE AND OTHERS

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Mr. Rohit Patwardhan h/for Mr. D.R. Shelke, Advocate for Applicant

Mr. V. M. Kagne, AGP for Respondents State

Mr. A. D. Pawar, Advocate for Respondent Nos. 4 to 6/Applicant in
CA/13882/23

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRADE, JJ.

DATE : 2nd September, 2024

ORDER:

1. The Writ Petition has been disposed off by order dated 09.08.2023, directing Respondent No.6-Executive Engineer, Minor Irrigation Division, Jalgaon to take a decision on the representation of the Petitioners, within 60 days. The representation was for rental compensation.

2. The Executive Director, Tapi Irrigation Development Corporation had moved Civil Application No. 13882 of 2023, seeking extension of time. The said Civil Application was filed on 27.10.2023.

Till today, despite passage of 10 months, the Executive Engineer has done nothing in this matter. Hence, the Petitioners have filed this Civil Application seeking directions.

3. In **Bhagwat Nathu Patil Vs. State of Maharashtra & others, 2009 (3) Mh.L.J. 413**, this Court ruled in the following terms as regards rental compensation, below paragraph No.17:-

"17. Conclusions:

(1) Rental Compensation is payable on the awarded value at the rate of 6 and 1/2% from 1.12.1972 and at the rate of 8% from 2.5.1979 till the full amount of final award is paid to the landowner. Awarded value would include all amounts determined under section 23, except section 23 (1-A) and section 23(2).

(2) If in reference or in proceedings under section 28 (1-A) or in appeal, the awarded amount is increased, the rental compensation will have to be re-determined in terms of the market value as re-determined.

(3) The interest payable on the rental compensation, not paid, would be at the rate of 6% for the period in default. This amount would be, however, payable only from 1-4-2000.

(4) Considering the observations in R.L. Jain (D), the rental compensation will be decided by the Special Land Acquisition Officer. While deciding rental compensation, the

Special Land Acquisition Officer, Collector, would hear the interested persons, i.e. landowners or other parties have interest as also the acquiring body. While doing so, if the date of taking possession of the land is not set out in the award, the Special Land Acquisition Officer to decide the same.

(5) The rental compensation along with interest would be paid by the State or the acquiring body as the case may be, within four months of the Special Land Acquisition Officer determining the rental compensation and amount of interest."

4. Most of the Petitioners are senior citizens and some of them are 75+ in age. The impression that we gathered from the record is that these Petitioners are made to run from pillar to post. They contend that the possessions of the lands were taken in 1972. The Department has concluded the cut off date, as 01.08.1984, for calculating the rental compensation until 2018, when Section 11 notice under the 2013 Land Acquisition Act was published. According to the Petitioners, the rental compensation from 1972 would be Rs.01,42,01,007/-. If 1979 is the year to be considered, the amount will be Rs.76,74,264/-. If the date as accepted by the department is to be taken into account (01.08.1984), the amount would be Rs.65,61,625/-.

5. The learned Advocate for the Department submits that the matter be relegated to the District Collector for further consideration.

The learned Advocate for the Petitioners submits that the Petitioners are tired of this litigation. It is 52 years, according to them, that the lands have been acquired. The actual landlord is 75 years of age.

6. In view of the above, we direct the District Collector to release the amount of Rs.65,61,625/-, which is an undisputed amount, calculated by reckoning the date 1.8.1984, by quantifying the amount payable to each of these Petitioners. This entire exercise shall be done within 30 days from today, failing which, we will hold the District Collector and the Executive Engineer Shri Santosh Ramchandra Bhosale, as responsible for the disobedience of our order. If the Model Code of Conduct is declared, that would not be an impediment or ground to refrain from making such payment.

7. Insofar as the other disputed issues are concerned, they cannot be looked into by this Court in its Writ jurisdiction in the light of **City and Industrial Development Corporation Versus Dosu Aardeshir Bhiwandiwalla (2009) 1 SCC 168**. We permit the Petitioners to approach the Civil Court for direction/declaration etc. in the matter of proper calculations to be made and for payment of the said amount.

8. With the above directions, **this Civil Application as well as Civil Application No. 13882 of 2023, stand disposed off.**

9. The Collector shall take into account 6% interest on the unpaid amount in the light of Clause 17(3) of the judgment delivered in **Bhagwat Nathu Patil (supra)**.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan