



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

2 WRIT PETITION NO. 9228 OF 2023

MADHAV BHIMRAO MENKUDALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS

...
Advocate for the Petitioners : Mr. V.D. Sapkal i/b Mr. Patil
Indrale Anand Vinayakrao
AGP for Respondents/State : Mr. S.B.Jadhav
Advocate for Respondent No. 4 : Mr.Deshmukh Sachin S.
Advocate for Respondent No.5 : Mr. Bhalerao Sudhir Govind
...

CORAM : KISHORE C. SANT, J.

DATE : 21.10. 2024.

PER COURT :

1. Challenge in this petition is to the order passed by the learned Land Acquisition Officer, Ahmedpur, District Latur in case No. San.Kra. 2022/LA/CR.-18 on 04.05.2023.
2. By this order the learned authority has rejected the appeal filed by the present petitioners and held that the petitioners shall not be entitled to get interest under Section 34

of the Land Acquisition Act, 1984. Main contention of the petitioners is that, in fact, this Court in appeal filed by the petitioners alongwith First Appeal No. 10892 of 2015, while allowing the appeal has specifically held that petitioners would be entitled to receive interest under Section 34 from the date of possession and the appeals of the Claimant Nos. 1 and 2 were disposed off. The appeal of Claimant No. 3 was partly allowed and appeal by the State Government was also partly allowed except appeal in Group No. 3 by the Acquiring Body.

3. This Court directed that the interest be paid under Section 28 from the date of award. This judgment was carried to the Hon'ble Apex Court and the challenge is still pending in the Apex Court.

4. In view of the orders in the appeal the amount was transferred by the Collector to the accounts of respective Claimants. On that the learned Collector, Latur passed order freezing the accounts of all the Claimants. The said was challenged by filing Writ Petition No. 4813, 4835 of 2020 by the Claimants.

5. This Court by order dated 21.04.2022 specifically passed an order and partly allowed the Writ Petitions, the respondents were directed to give amounts to the Claimants in these petitions subject to condition to bring back the deposited amount to the Court according to a chart prepared by the learned Registrar, that was annexure "X".

6. The petitioners approached the Hon'ble Apex Court by filing Special Writ Petition (C) No. 13821 of 2022. The Hon'ble Apex Court specifically observed :

"A simple process of calculation has unnecessarily been dragged before this Court. In the circumstances, we deem it necessary and in the interest of justice, to permit the parties to approach the SLAO along with their calculation of the amount payable requiring the SLAO to take the decision on the same in accordance with law.

The impugned order passed by the High Court shall not stand in the way of SLAO in deciding the matter, as directed above. He shall take independent decision in accordance with law without being influenced by any observation made by the High Court."

7. Learned Senior Advocate, thus submits that when

the SLAO was directed only to make calculations in accordance with law, the learned SLAO by exceeding direction, has held that the Claimants are not entitled to receive interest under Section 34 of the Land Acquisition Act. He submits that the rights of the parties were already crystallized. This Court in appeal had directed to pay interest under Section 34 from the date of the award.

8. So far as, this position is concerned, there is no dispute. The Hon'ble Supreme Court has also not disturbed this aspect. In the order in SLP what was directed was only calculations in accordance with the law. That cannot be taken to learned SLAO to apply his mind and consider the rights of the parties which were already decided.

9. He thus submits that the Hon'ble Supreme Court is specific only on the point of calculations and it was not open for the learned SLAO to decide the rights of the parties afresh. In any case he cannot adjudicate the rights of the parties, same is only for the Civil Court.

10. He thus submits that as on today though the amount is transferred in the accounts of the petitioners, they are not entitled to get the amount because their accounts are freezed inspite of order passed by this Court. He thus prays for allowing the application.

11. Learned Senior Advocate further submits that in any case now since the accounts are freezed the petitioners are not in a position to operate the accounts & even they are not in a position to use their own amount. It is not the case that in the account it is only the amount transferred by the Government is deposited.

12. Learned AGP and the learned Advocate for the Acquiring Body vehemently opposed the petition. They submit that this Court has already held in the case of the **State of Maharashtra and Others Vs. Kailash Shiva Rangari – 2016 (3) Mh. L.J. 457**, about entitlement of the parties to receive interest under Section 34. They submit that in view of the same the learned SLAO has rightly considered that the parties are not entitled to receive the interest under Section 34 as prayed for by

the petitioners. The other submission is that if the accounts are directed to be operated and if the amount is permitted to be withdrawn then, it would be difficult for the Government and the Acquiring Body to recover the amount from the Petitioners.

13. This Court finds that as on today the entire amount of the petitioners is blocked. The intention was only to secure the interest of the Acquiring Body and the Government in case it is found that amount is transferred in excess. This Court thus, finds following order will meet the ends of justice. :

ORDER

(i) The impugned order dated 04.05.2023 passed by the learned SLAO is quashed and set aside.

(ii) The accounts of the petitioners are directed to be de-freezed, subject to condition that all the petitioners shall get 25% of the amount transferred from such accounts in Fixed Deposits till further orders from the Competent Authority.

(iii) The learned SLAO shall do only exercise of calculation of the amounts. The parties shall

be entitled to receive the amount as per the calculations. Such exercise shall be done on or before 31.12.2024 in accordance with the order passed by this Court and the Hon'ble Apex Court.

(iv) This order is subject to final outcome of the proceedings pending before the Hon'ble Supreme Court.

(v) The parties are already before the Court and the Bank shall also act accordingly.

(vi) The Writ Petition stands disposed off.

**(KISHORE C. SANT)
JUDGE**

mahajansb/