



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

29 WRIT PETITION NO. 8870 OF 2022
WITH
WRIT PETITION NO. 8878 OF 2022

JAYANT DHONDIRAM PATIL
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS DEPARTMENT
OF IRRIGATION AND OTHERS

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Advocate for the Petitioners : Mr. Madake Datta A.
AGP for Respondents/State : Ms.R.R. Tandale
Advocate for Respondent No.1 : Mr. Gade Akash D.
Advocate for Respondent Nos. 3 & 4 : Mr. Rajendra S.
Deshmukh (Senior Advocate) a/w Mr. Ramankumar Gopal
Dodiya i/b Mr. Deshmukh Devang R.

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CORAM : KISHORE C. SANT, J.

DATE : 21.10. 2024.

PER COURT :

1. Heard. By these Writ Petitions a challenge is raised to the order dated 05.08.2022 passed by the learned Collector, Latur. in proceedings under Section 75 of the Land Acquisition and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013., The learned Collector has allowed the proceedings.

2. The objections of one Sahebao Jagannath Patil and Jayant Dhondiram Patil who were from the same lands of the respondents. The genealogy is given on page No. 15 of this petition. The genealogy is accepted. It is their case that the land is belonging to one Shivaji. He had three sons namely Laxman, Janinath and Narayan. The present petitioners are the sons of these three brothers as given in the same genealogy. The dispute between the parties is about the apportionment of compensation amount towards the acquisition of land. The parties are already before the Civil Court over the rights in the property. Presently the dispute is only on limited issue to the extent of properties which are acquired by the Land Acquisition Authorities.

3. The learned Collector by way of impugned judgment and order held that each party will have right in the properties subject to outcome of the Civil Suit pending in between the parties.

4. The present respondent Tanaji Pandharinath Patil

in Gut No. 18/1 is held to be entitled to receive Rs. 35,50,113/-, Shivaji Pandharinath Patil is held to be entitled to receive Rs. 33,63,681/-, respondent Pandhari is held to be entitled to receive Rs. 33,63,681/- and respondent one Dhondiram Narayan Patil is held to be entitled to receive Rs. 8,83,618/- in Survey No. 18 of 2001. Sheshrao Janinath Patil, Maroti Janinath Patil and Ramrao Janinath Patil in Gut No. 18/2 are entitled to receive Rs. 3,18,970/-.

5. It is now the case that Sheshrao, Janinath Patil and Maroti Janinath Patil are already taken compensation amount of their respective shares.

6. The learned Collector is further made clear that subject to Civil Court order the parties are entitled to get amount on giving security/undertaking to the extent of amount of compensation.

7. The learned Senior Advocate Mr. Deshmukh submitted that the respondents i.e. Shivaji and Tanaji have already furnished the security and in spite of that they are not

given amount in view of the order passed in this petitions.

8. Mr. Madake, learned Advocate and Mr. Deshmukh for the petitioners contend that they have a share in the property acquired. They fairly accepted that the respondents have 1/3rd share in the property. Their contention is only that the respondents to be allowed only to get the amount of 1/3rd share to their extent in the said compensation and both these petitioners in this petition have 1/3rd share in the said compensation. The further objection is that the learned Collector himself has decided the rights of the parties. In view of Section 76 of the Act and the learned Collector has only to refer the dispute for apportionment to the Competent Authority/Court. Considering the above, this Court finds substance in the petitions. The learned Collector instead of referring the parties to the Competent Civil Court, taken the task on himself to decide the shares of the petitioners/Claimants. It is only for the Competent Authority to decide the apportionment/shares in the compensation amount.

9. Heard the learned AGP for the Respondents/State

and the learned Advocates for the Acquiring Body.

10. Considering the submissions and discussion, this Court finds that the order passed by the learned Collector needs to be quashed and set aside. However, since the entire amount is deposited, it is also necessary to allow the respondents to give some of the amount hence, the following order :

ORDER

- (i) The Writ Petitions are partly allowed.
- (ii) The impugned judgment and order passed by the learned Collector, Latur is quashed and set aside.
- (iii) Respondent Nos. 3 and 4 to receive/withdraw 50% of the amount deposited in view of security already furnished. This withdrawal shall be subject to outcome of the Reference that would be made to the Competent Authority.
- (iv) Remaining 50% deposited amount be fixed in Fixed Deposits in the name of the Special Land Acquisition Officer, respondent No. 5 and shall be disbursed after the decision

of the Reference made to the Competent Authority.

(v) The learned Collector to send the Reference to the Competent Authority. The Competent Authority is expected to decide the Claim/Reference within six months from today.

(vi) It is expected by the learned Competent Authority to decide the said as expeditiously as possible.

(vii) This order to take effect after four weeks at the request of petitioners.

**(KISHORE C. SANT)
JUDGE**

mahajansb/