



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO. 13335 OF 2021

GANPAT PRALHAD MARE AND ANOTHER
VERSUS
THE ADDITIONAL COLLECTOR AND OTHERS

...
Advocate for the Petitioners : Mr. S.P. Tiwari h/f Mr. Gayke
Shantilal J.

AGP for Respondents/State : Ms. A.S. Mantri
Advocate for Respondent Nos. 3 to 7 : Mr.Kale Gopal D.

...

CORAM : S. G. MEHARE, J.
DATE : 17th APRIL, 2024.

PER COURT :

1. Heard the learned counsel for the petitioners and the learned Counsel for the respondents.

2. It is a case of favoritism by the Revenue Officer. The land acquisition proceeding was initiated before the Sub Divisional Officer/ Land Acquisition Officer, Nilanga. After passing of award respondent Nos. 3 to 7 had filed the objections that they have a share in the acquired property. Respondent No. 2 had registered the objections, called respondents with present petitioners, gave them time to file reply and also the dates. He gave first date on 23.07.2021. During the pendency

of the adjudication of the objections, respondent No. 2 released the amount of compensation in favour of the present petitioners. He did not stop there, he continued giving the dates to the petitioners and the respondents and closed the matter for order on 12.10.2021. Such acts of respondent No. 2 are not only suspicious but also seriously affected the other side. The act of releasing the money is apparently deliberate and against the interest of the respondent Nos. 3 to 7.

3. On the complaint of respondent Nos. 3 to 7, by the order dated 10.11.2021, respondent No. 2 (New Presiding Officer) made an inquiry and directed to recover the amount paid to the petitioners with interest and freeze his bank account. Against the said order the present petition is filed.

4. The contention of the learned Counsel for respondent Nos. 3 to 7 is that such matter would have been referred to the Civil Court for adjudication. A suit for partition is already pending. The then officer, Respondent No. 2 deliberately disbursed the amount, though the objections were pending. He also made a statement on instructions that the then officer released the money in many matters by adopting same modus.

5. Learned Counsel for the petitioners submits that Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the Act 2013”) provides for a reference of dispute on apportionment of compensation amongst the persons interested. He would submit that such reference should be made to the Collector and the learned Collector shall within 30 days should make a reference to the appropriate authority. If the Collector fails to make such reference, the applicant/s may apply to such authority and request to direct the Collector to make reference to it within 30 days. He would submit that the best remedy to the respondent Nos. 3 to 7 was to pray for reference under Section 64 of the Act, 2013.

6. Learned Counsel for respondent Nos. 3 to 7 submits that they had raise objection and it was the duty of respondent No. 2 to refer the matter to the appropriate authority as per Section 64 of the Act, 2013. He did not refer it to appropriate authority and illegally released the compensation amount.

7. The petitioners were directed to produce the bank

statements but till date they did not produce it. The petitioners are not exclusive owners of the acquired land and at the time of joint measurement the names of the present respondents were also recorded in the revenue record. However, the petitioners have played a fraud, and got their name mutated and grabbed the entire amount of compensation.

8. Considering the serious allegations of depriving respondent Nos. 3 to 7 from receiving their share in the compensation and releasing the money by keeping the objections pending and without knowledge paying the compensation to petitioner, is an objectionable conduct of petitioners. There is a sufficient material to believe that the petitioners have played a game with them and with the Government also. A Statement has also been made that the then SDO passed the similar orders in many similar matters. This may be in subordination and deliberate act on the part of the public servant. Therefore, the Divisional Commissioner, Aurangabad is requested to make a detailed inquiry against the then SDO/ Land Acquisition Officer, Nilanga, who has disbursed the compensation to the petitioners on 27.2021. The

Commissioner is also requested to initiate an inquiry within three months from this order and complete it within six months thereafter and submit his decision to this Court immediately thereafter.

9. If the Commissioner finds that the petitioners are also involved in committing fraud, he should initiate criminal action against the petitioners also. Since an objection was pending prior to disbursement of the amount, the learned SDO/Land Acquisition Officer, Nilanga is directed to refer the matter to the Competent Authority for proper adjudication within 30 days from the receipt of this order.

10. In the mean time, the petitioners shall not withdraw amount lying with the bank account, till the appropriate authority passes the appropriate orders.

11. In the above terms, the petition stands disposed of.

(S. G. MEHARE)
JUDGE

mahajansb/