

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6813 OF 2024
WITH
WRIT PETITION NO.6845 OF 2024

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Vishwanath Shankar Patil

Age : 72 Years, Occupation : Retired,
Residing at : Bokadvira, Taluka : Uran,
District : Raigad.

...Petitioner

Versus

1. **The Special Land Acquisition Officer**
Metro Centre No.1, Uran, Dist. : Raigad.
2. **Mr.Tushar Jagdish Patil**
Age : 40 Years, Occupation : Service,
Residing at : Bokadvira, Taluka : Uran,
District : Raigad.
3. **Smt.Namrata Jagdish Patil**
Age : 38 Years, Occupation : Housewife,
Residing at : Bokadvira, Taluka : Uran,
District : Raigad.
4. **Smt.Rajni Amit Patil**
Age : 37 Years, Occupation : Housewife,
Residing at : Murbi Village, Kharghar,
Taluka : Panvel, District : Raigad.
5. **Mr.Rajesh Jagdish Patil**
Age : Nil, Occupation : Nil,
Residing at : 129, Edgar Road,
Whitton, Post Cost TW 45QN,
United Kingdom.

6. **Smt.Ratnprabha Narayan Patil**
Age : 66 Years, Occupation : Housewife,
Residing at : Bokadvira, Taluka : Uran,
District : Raigad.
7. **Shree Mayur Narayan Patil**
Age : 34 Years, Occupation : Service,
Residing at : Bokadvira, Taluka : Uran,
District : Raigad.
8. **Smt.Dipika Narayan Patil**
Age : 36 Years, Occupation : Housewife,
Residing at : Bokadvira, Taluka : Uran,
District : Raigad.
9. **Shree Anant Shankar Patil**
Age : 81 Years, Occupation : Retired,
Residing at : Bokadvira, Taluka : Uran,
District : Raigad.
10. **Smt.Manjula Balkrishna Patil**
Age : 80 Years, Occupation : Housewife,
Residing at : Mulekhand, Taluka : Uran,
District : Raigad.
11. **Smt.Sushila Maruti Mhatre**
Age : 74 Years, Occupation : Housewife,
Residing at : Chirner, Taluka : Uran,
District : Raigad.
12. **Smt.Revati Ashok Mumbaikar**
Age : 62 Years, Occupation : Housewife,
Residing at : Change, Taluka : Uran,
District : Raigad.
13. **Smt.Bhagirathi @ Bhagyalata Shankar Patil**
Age : 52 Years, Occupation : Nil,
Residing at : Change, Taluka : Uran,
District : Raigad.

...Respondents

**WITH
INTERIM APPLICATION NO.10457 OF 2024
[INTERIM APPLICATION (ST) NO.14864 OF 2024]**

1. **Mr.Tushar Jagdish Patil**
Age : 40 Years, Occupation : Service,
Residing at : Bokadvira, Taluka : Uran,
District : Raigad and Others. ...Applicants

In the matter between:-

Vishwanath Shankar Patil
Age : 72 Years, Occupation : Retired,
Residing at : Bokadvira, Taluka : Uran,
District : Raigad. ...Petitioner

Versus

1. **The Special Land Acquisition Officer**
Metro Centre No.1, Uran, Dist. : Raigad
and Others. ...Respondents

Mr.Sandesh Patil i/b. Mr.Saurabh Patil a/w Ms.Kshema Mahali, Mr.Vipul Raut:-	Advocates for Petitioner.
Ms.Priyanka Lanke i/b. Mr.Nitesh Bhutekar:-	Advocate for Respondent Nos.2 to 5, 12 and 13.
Ms.Savita Prabhune:-	AGP for Respondent No.1– Special Land Acquisition Officer.

CORAM : S. M. MODAK, J.

DATE : 15th OCTOBER 2024

P. C. :-

1. The Petition is taken on board by way of *praecipe*.
2. I have heard learned Advocate for the Petitioner and learned AGP.
3. Shankar Vithal Patil and others have applied for withdrawal of amount deposited towards land acquisition compensation. It was by way of MCA No.10 of 2018. The Executing Court ordered release of Rs.8,59,25,324/- (Rupees Eight Crore Fifty Nine Lakh Twenty Five Thousand Three Hundred Twenty Four) on furnishing 100% Bank Guarantee. Present Petitioner Vishwanath filed Writ Petition (ST) No.9786 of 2024. This Court directed the trial Court to dispose of withdrawal Application expeditiously.
4. Present Petitioner filed withdrawal Application in Special Darkhast No.9 of 2024 without insisting for Bank Guarantee. The Executing Court refused to reconsider the prayer for withdrawal without Bank Guarantee as per order dated 25th April 2024. (Page No.58). It is challenged in this Petition.
5. Learned Advocate for Petitioner has tendered a copy of order dated 11th September 2024 passed by this Court in Writ Petition No.6813 of 2024 and other connected Petitions including present Petition. This Court has considered the percentage of Bank Guarantee

which was directed by the same Court in other matters and direction was given to Government Pleader.

6. Today, the contention is, imposing condition to furnish 100% Bank Guarantee is too onerous and already the land of the Petitioner is acquired and he is not having funds for obtaining Bank Guarantee. Instead, he suggested there can be a Bank Guarantee for 50% and 50% can be withdrawn on Indemnity Bond.

7. Learned AGP submitted that the reference Court has considered wrong date while calculating the compensation. Their First Appeal is pending. They can certainly agitate that issue before the First Appellate Court.

8. In fact, the present Petitioner was non Applicant No.2 in Special Darkhast No.9 of 2024. It is reflected in Para No2 of the impugned order. Even, learned Advocate for Respondent Nos.2 to 5, 12 and 13 is praying for the same directions. They have filed Interim Application No.1045 of 2024. They have also prayed for setting aside the orders dated 25th April 2024 passed on their separate Applications. There also, reference Court have asked them to furnish 100% Bank Guarantee. Even, they can be permitted the same advantage as granted to the Petitioner. In this Petition, there are in all 12 private

Respondents. All of them have not appeared. Now, it is for the reference Court to decide the entitlement of every Applicant and the respective quantum.

9. The amount of TDS is deducted on interest amount. It is clarified in Para No.5 of Affidavit-in-Reply filed by the Deputy Collector.

10. The Hon'ble Supreme Court in case of *Bahubali Ravaji Doshi and Ors. V/s. State of Maharashtra and Anr.*¹ directed the reference Court to release 50% with security and remaining 50% without security. Same directions can be issued. Hence, order:-

ORDER

(i) The matter is remanded back to the Reference Court with direction to decide the share of the Petitioner as well as Respondent Nos.2 to 13.

(ii) After ascertaining their share, the Reference Court while allowing the withdrawal to impose a condition of 50% Bank Guarantee and 50% Indemnity Bond.

11. In view of that, Interim Application and Writ Petitions are disposed of.

[S. M. MODAK, J.]

1 Civil Appeal No.7193 of 2016 : 1st August 2016 : Supreme Court of India