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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 13949 OF 2024

Shyamlal Hariram Chandnani .. Petitioner

Versus

Special Land Acquisition Officer and Anr. .. Respondents

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- Mr. Shriram S. Kulkarni i/by Mr. Pranjal M. Khatavkar, Advocate for Petitioner.
- Mr. P.G. Sawant, AGP for Respondents – State.

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CORAM : MILIND N. JADHAV, J.

DATE : JUNE 26, 2024.

P.C.:

1. Heard Mr. Kulkarni, learned Advocate for Petitioner and Mr. Sawant, learned AGP for Respondents – State and Special Land Acquisition Officer.

2. Present Writ Petition takes exception to the order dated 21.02.2024 passed in Application filed below Exhibit “18” appended at page No.116 of the Writ Petition.

3. Application is filed by the Constituted Power of Attorney of the original Claimant seeking release and disbursement of the amount of compensation in favour of the Applicant. Perusal of the pleadings reveal that it is an admitted position that all requisite details that are required for compliance namely the Power of Attorney in favour of

Constituted Power of Attorney by original Claimant, Indemnity Bond and necessary Affidavit by original Claimant shall be filed if so required before the Court.

4. An objection is raised by the Registry of the Court, refusing to release and disburse the amount in favour of the Constituted Power of Attorney on the premise that the original Claimant's bank details have not been furnished. Once the Constituted Power of Attorney has placed on record, appropriate orders, *inter alia*, with respect to release of amount in the name of the Constituted Power of Attorney by virtue of the Application made on behalf of the Claimant, there should not be any impediment or objection raised by the Registry in such matters.

5. There is no requirement of adjudication on the part of the Executing Court which is attempted to be made while deciding the Application filed below Exhibit "18". All that the Executing Court is required to look into is the fact that the Constituted Power of Attorney has placed on record the requirements for seeking disbursement of the amount of compensation to himself. Insistence by the Executing Court on calling upon the bank details of the Claimant is not at all required and should not be the practice that should be adopted or even followed by the Executing Court in such matters.

6. All that the Executing Court is required to do is to verify the PoA of the Constituted Power of Attorney and if the required document

is correct immediately release and disburse the amount to the Constituted Power of Attorney in the bank account details provided to the said Special Land Acquisition Officer (for short "SLAO"). By virtue of the impugned order, the Executing Court has placed an embargo on disbursement which is not its domain and business. Executing Court cannot re-determine as to who is entitled to the compensation as per the Judgment and Decree in the reference proceedings.

7. The only limited question before the Executing Court in the present case is with respect to disbursement of the amount in favour of Claimant which has been claimed by the Claimant's Constituted Power of Attorney.

8. An incorrect finding has also been returned by the learned Executing Court in paragraph No.3 of its order. The Executing Court has held that the present Applicant before the Executing Court is not the Power of Attorney holder of the original Claimant.

9. Mr. Kulkarni draws my attention to the Power of Attorney which is appended at page No.38 of the Writ Petition. I have perused the said Power of Attorney and there is no ambiguity whatsoever and therefore the entire impugned order dated 21.02.2024 is unsustainable in law and is quashed and set aside.

10. Mr. Kulkarni would also point out that the details of the bank account are given in prayer clause 'b' of the Writ Petition.

11. Mr. Sawant, learned AGP draws my attention to the Affidavit-in-Reply dated 24.06.2024 and would contend that according to the SLAO, the Award was passed in the name of Collector and Deputy Custodian Evacuee Property and in that view of the matter the Claimant and his Constituted Power of Attorney are not entitled to receive any compensation. This statement in paragraph No.9 of the Affidavit-in-Reply is rejected in *limine*. The Claimant is the person who is entitled to compensation under the Award which has been passed in the year 1986. Such an objection is nothing but an extremely arbitrary and illegal stand adopted by the SLAO for ulterior motives. Once such a stand is adopted in paragraph No.9, a complete contradiction is noted by this Court in paragraph No.10 of the same Affidavit. It is the SLAO's contention therein that initial compensation was paid over to the original Claimant. The SLAO submits that acquisition has not been completed in the year 1985 – 1986 and the orders passed by the Settlement Commissioner for payment of compensation are now required to be verified by taking out appropriate proceedings. Such a stand adopted is without any basis and unsubstantiated. It is nothing but a colourable exercise of power by the SLAO when he states that in the year 2024, the orders passed for payment of compensation will now have to be reviewed by him by taking out appropriate proceedings. Nothing prevented the SLAO to take out appropriate proceedings for the last 40 years. The stand

taken by the SLAO is clearly *malafide*.

12. In view of the order dated 03.01.2024 which has been passed by the learned Executing Court in Application filed below Exhibit "134", there can be no impediment in allowing the Constituted Power of Attorney of the Claimant to seek disbursement of the amount which stnads deposited with the Executing Court.

13. In view of the above, Affidavit dated 24.06.2024 and the averments made therein are unsustainable and are comprehensively rejected.

14. In view of the above observations and findings, the following order is passed:-

(i) Impugned order dated 21.02.2024 stands quashed and set aside;

(ii) Application filed below Exhibit "18" stands allowed;

(iii) The Executing Court shall transfer the compensation amount in the bank account of the Applicant as per the details given in prayer clause 'b' within a period of two weeks from the date of production of the server copy of this order before the Executing Court;

(iv) Executing Court shall take cognizance of a server copy of this order and shall not insist on the certified copy of

this order to be produced and the amount of compensation shall be transferred to the Applicant's bank account as directed;

(v) Copy of the present Writ Petition and more specifically prayer clause 'b' alongwith a server copy of this order shall be placed before the Executing Court tomorrow at 10:30 a.m.;

(vi) Executing Court is directed by this Court not to insist for filing a certified copy of this order and delay the proceedings and strictly adhere to the timeline for disbursement of the amount which has been directed in this order;

(vii) Liberty to apply.

15. Writ Petition is allowed and disposed.

[MILIND N. JADHAV, J.]

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AJAY TRAMBAK UGALMUGALE

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