

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10303 OF 2024

Smt Jashodaben D/o Navin Patel ... Petitioner

Versus

Resident Deputy Collector & Anr. ... Respondents

Mr Mandar Soman, i/b Hardeek Joshi, for the Petitioner.
Mr Harsh Dedhia, i/b Hiten Venegavkar, for Respondent No.1.

CORAM: G. S. KULKARNI &
FIRDOSH P. POONIWALLA, JJ.
DATED: 18th OCTOBER, 2024

P.C.

1. We have heard Mr Soman, learned Counsel for the Petitioner and Mr Dedhia, learned Counsel for Respondent No.1.
2. The prayers as made in the Writ Petition reads thus:
 - a) Rule be issued.
 - b) This Hon'ble Court be pleased to issue a writ a Mandamus or any other appropriate writ/order or direction Respondent no.1 & 2 to deposit in bank account of Petitioner an amount of Rs.17,06,787/-,
 - c) Pending the hearing and final disposal of present Writ Petition, Respondent No. 1 is restrained from further dealing of such compensation amount of Rs. 17,06,787/-.
 - d) Ad-interim relief in terms of prayer clause (c)."

3. On 16 August 2024, we had passed the following order:

“1. Heard Learned Counsel for petitioner.

2. Issue notice to the respondents. In addition to the court notice, advocate for the petitioner is permitted to serve the respondents by private service by all permissible modes and place on record affidavit of service. Despite notice, if respondents are not represented on the adjourned date of hearing, the court shall proceed to pass appropriate orders.

3. Stand over to **23 August, 2024, High on Board**. Respondent No.1 shall not disburse the amounts to the private respondents, if already not disbursed.”

4. We had adjourned the proceedings when Respondent No.1 was represented by Mr. Harsh Dedhia and Mr. Hiten S. Venegavkar. Till date no Reply Affidavit is placed on record.

5. The grievance of the Petitioner is that the Petitioner's land, subject matter of the Land Acquisition Award dated 20 October 2023, Exhibit “B” to the Petition, was acquired for public purpose of widening of existing NH 848A road Rakholi bridge to Khadoli upto Velugam DNH border in Vasona, Dapada, Khadoli, Surangi, Apti, Velugam villages of Dadra and Nagar Haveli.

6. Mr Soman has drawn our attention to the amount of compensation due and payable to the Petitioner and according to which Mr Soman would contend that the Petitioner had become entitled to total compensation of Rs.44,58,212/-. It is his submission that to receive the compensation, the Petitioner had submitted all necessary documents as also undertaking dated 2 December 2023, copies of which are annexed at page 59 and page 61 of the paper book.

7. The case of the Petitioner is that the compensation of Rs. 44,58,212/- was accordingly deposited in the Petitioner's bank account on

12 June 2024. A copy of the Bank statement as issued by the State Bank of India, Kadoli Branch, is annexed to the Petition at Exhibit 'D' at page 64. The grievance of the Petitioner is that, however, illegally and without any authority in law, part of the amount deposited in the Petitioner's bank account, being an amount of Rs.27,06,787/-, has been illegally withdrawn by Respondent No.1. It is the case of the Petitioner that this amount was lawfully disbursed to the Petitioner and when it had become the property of the Petitioner. It is submitted that there is no provision under the Act which would entitle Respondent No.1 to take such an action to deprive the Petitioner of its property, which according to the Petitioner, is violative of Article 300 A of the Constitution. It is in these circumstances that the present Petition has been filed.

8. Having heard learned Counsel for the parties, we are of the opinion that it was not appropriate for Respondent No.1 to disburse the amount and adopt such method to directly communicate with the Petitioner's bank and ask the bank to remit such amount to Respondent No.1. In our *prima facie* opinion, this is absolutely unjustified and arbitrary. In these circumstances, we are of the opinion that it would be in the interests of justice that Respondent No.1 justifies his actions and/or adopts corrective measures as the law would mandate.

9. We, accordingly, permit the Petitioner to approach Respondent No.1 for a hearing on this issue on 21 October 2024 at 3.00 pm.

10. After hearing the Petitioner, Respondent No.1 shall pass an appropriate order considering that this Petition itself is a representation to Respondent No.1 for re-deposit of the said amount in the Petitioner's bank account. Accordingly, awaiting such appropriate order to be passed by

Respondent No.1, we adjourn the proceedings to be listed on the **supplementary list** on **23 October 2024**.

11. There shall not be any extension for the Resident Deputy Collector to pass such order as directed by this Court.

12. Parties to act on an authenticated copy of the order.

13. In the event, Respondent No.1 is of the opinion that his actions were justified, let such appropriate reasons be recorded in the order. Also, in that event, reply affidavit to this Petition be placed on record and a copy of the same be served on the Advocate for the Petitioner on or before 22 October 2024.

(FIRDOSH P. POONIWALLA, J.)

(G. S. KULKARNI, J.)