

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14430 OF 2024

Nandakumar Sarjerao Gote & Ors. ... Petitioners

Versus

State of Maharashtra & Ors. ... Respondents

WITH
WRIT PETITION NO. 2116 OF 2024

Tatyaba Bhauso Paigude & Ors. ... Petitioners

Versus

State of Maharashtra & Ors. ... Respondents

Mr. Kalpesh Patil, for the petitioners in WP/14430/2024.

Mr. Prathamesh Bhargude, i/b. Ranjit D. Shinde, for the Petitioners in WP/2116/2024.

Mr. Vijay D. Patil, for Respondent No.10/MSRDC in WP/2116/2024.

Ms. S. S. Bhende, AGP, for the State.

Mr. Bhushan Mandlik, for Respondent Nos. 5 & 6 in WP/2116/2024.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATED: 14 NOVEMBER 2024

P.C.

Writ Petition No. 2116 of 2024

1. We have heard Mr. Bhargude, learned counsel for the petitioners on Writ Petition No.2116 of 2024 and Mr. Kalpesh Patil, who has appeared in

companion petition (Writ Petition No. 14430 of 2024) and learned counsel for the respondents. As observed in the earlier order, this is a case wherein it *prima-facie* appears that the then Sub Divisional Officer, Haveli, (“SDO” for short), Shri Sanjay Aswale has acted in a high-handed manner, in as much as the land acquisition compensation which was paid to the petitioners and credited to the bank account of the petitioners, without any authority in law and as alleged by the petitioners in an illegal manner, was initially freezed and thereafter, unilaterally withdrawn. The amount is now stated to be deposited with the SDO, Haveli. In these circumstances, the present petition was filed.

2. Mr. Bhargude submit that the SDO has acted in such manner and without authority in law and/or without jurisdiction, merely because he received a complaint on apportionment from respondent Nos. 5 & 6. It is informed to us by Ms. Bhende, learned AGP, that the amount of compensation, under an award passed by consent of the parties, on private negotiation. Such award was acted upon, after the petitioners submitted a joint affidavit dated 6th July 2023 quantifying the amount of compensation, each of the petitioners would be entitled to receive. Such apportionment was acted upon by crediting their bank amounts with the respective accounts on 31 July 2023. However, immediately thereafter on 13 September 2023 by communication addressed by the SDO to the petitioners, the amounts credit to the petitioners was ordered to be freezed by the SDO as informed to the Bank.

Thereafter, on 20th September 2023, such amount was ordered to be withdrawn. The bank also remitted the amounts in favour of the SDO.

3. The petitioners contend that in such manner they are deprived of the compensation amount after being received by the petitioners and despite being legitimately entitled which was qua their claim for compensation in respect of their land which came to be acquired. It is almost a year and more that the petitioners are deprived of such amount.

4. Ms. Bhende, relying on the affidavit-in-reply filed on behalf of Dr. Yashwantrao Mane, SDO, Haveli, District-Pune would intend to justify, such action of the SDO, however, she is not in the position to point out any provision of law or any authority/decision which would have permitted the then SDO to take such drastic action to deprive the petitioners of their property in such amounts without following due process of law. We find that the grievance of the petitioners is of their rights under Article 14 read with Article 300A and also Article 21 of Constitution of India being deprived by the impugned action.

5. Having due regard to such gross conduct of the SDO, Ms. Bhende, on instructions, would submit that the SDO is ready and willing to re-deposit the amount to the bank account of petitioner No.10 from the date of withdrawal. However, considering the fact that the withdrawn amount since

had remained with the State Government and which was deprived to the petitioners the principal amount which came to be withdrawn needs to be credited back to the petitioners' account along with an appropriate rate of interest, if such amount is to be maintained in fixed deposit. We, accordingly, direct the SDO to credit the amount to the bank account of petitioner No.10 within one week from today with interest calculated @ 6.5%.

6. However, the larger question which remains to be addressed is whether the then SDO, Haveli had any authority to resort to such action, and as to why the petitioner's ought not to be compensated on account of such high-handed action, which the law would not permit the SDO to resort. As also for depriving the petitioner of their property, in such compensation credited to their bank account, it cannot be that the State Government would be responsible, but the officer who has acted high handedly and without authority in law would be required to be held responsible for his own actions.

7. In this view of the matter, we permit the petitioner to implead Shri Sanjay Aswale, as a party respondent, so that he can answer the petitioner's case in this regard, as also apprise the Court of his authority in law in taking such drastic action considering the grievance made by the petitioners. The petitioners would be justified in so asserting. Despite the fair stand taken by present SDO to re-deposit the amount along with interest, in our prima facie

opinion the hardship and injury as caused to the petitioner would not mitigate, such prejudice which was caused to the petitioners by such actions of Shri Sanjay Aswale for which he alone would be responsible and hence, on such issues he would require to be heard.

8. Accordingly, we permit the petitioner to implead as Shri Sanjay Aswale as a party respondent. Let the amendment be carried out during the course of the day. Learned advocate for the petitioner is permitted to serve the added respondent by private service by all permissible modes and place on record affidavit of service.

9. Ms Bhende, learned AGP is also permitted to serve a copy of this order on Shri Sanjay Aswale as also inform him of the adjourned date of hearing, when we shall hear the parties.

10. Accordingly, list the matter on 28th November 2024, High on Board.

Writ Petition No. 14430 of 2024.

11. In so far as Writ Petition No.14430 of 2024 is concerned, Mr. Kalpesh Patil fairly states the petitioners be permitted to withdraw this petition with liberty to the petitioners to address their grievances in the pending Civil Suit including by moving an Interim Application. Writ Petition is allowed to be withdrawn with liberty as prayed for. All contentions of parties are kept open.

12. However, as the petitioners intends to move Interim Application in the pending suit, to merely enable them to do so if the amount which may be now returned to petitioner No.10, Shri Amit Gote by the SDO, be not parted for a period of 15 days from today. The aforesaid orders are no expression on the merits of the rival contentions. The Civil Court is accordingly free to consider the case on merits and pass an appropriate orders in accordance with law.

13. All contentions of the respondents i.e., petitioners in the Writ Petition No. 2116 of 2024 in the pending suit are expressly kept open.

14. In-so-far as the accounts of the other petitioners other than the petitioner No.10 are concerned, they are directed to de-freeze within a period of one week from today.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI , J.)