

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4491 OF 2023
WITH
INTERIM APPLICATION NO.10591 OF 2024
IN
WRIT PETITION NO. 4491 OF 2023

Laxman Vinayak Patil and Ors. .. Petitioners
Versus
~~Padmakar Pandurang Patil~~ (Deceased)
Vasanti Padmakar Patil and Ors. .. Respondents

WITH
APPEAL FROM ORDER (ST) NO. 10007 OF 2023
WITH
INTERIM APPLICATION NO. 10578 OF 2024
IN
APPEAL FROM ORDER (ST) NO. 10007 OF 2023

Laxman Vinayak Patil and Ors. .. Appellants
Versus
~~Padmakar Pandurang Patil~~ (Deceased)
Vasanti Padmakar Patil and Ors. .. Respondents

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- Mr. Shriram Kulkarni a/w. Mr. Gaurav Ugale, Advocate for Petitioners / Applicants.
 - Mr. Shubham Gangan, Advocate i/by Mr. Harshad Sathe, Advocate for Respondents.
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CORAM : MILIND N. JADHAV, J.
DATE : JULY 18, 2024.

P.C.:

1. Heard Mr. Kulkarni, learned Advocate for Petitioners / Applicants and Mr. Gangan, learned Advocate for Respondents who has entered in late appearance after the order is dictated.

2. Pursuant to the order dated 26.04.2023, it is the contention of the Writ Petitioners that Respondents have withdrawn the entire amount, when the Respondents are entitled only to 50% of the said amount which is the compensation declared under the provisions of the Land Acquisition Act, 1894.

3. Mr. Kulkarni would submit that in the interregnum, Respondents have withdrawn the entire amount including the 50% amount belonging to the Writ Petitioners' branch and had parked the said amount in Saving Bank Account No.00000040145975225 held with the State Bank of India, J.N.P.T. Township Branch. This information has been gathered by the Writ Petitioners subsequently. The amount is substantial in nature of approximately Rs.9,33,56,516/-. The said amount is held in that bank account in J.N.P.T. Branch. Writ Petitioners have also placed on record the details of the bank accounts in which the aforesaid amount has been transferred and disbursed thereafter from the account of the State Bank of India. It is the contention of the Writ Petitioners that Respondents would be entitled to only 50% of the aforesaid amount and not the entire 100% amount which they have withdrawn surreptitiously.

4. In that view of the matter, Respondents are directed to remain present in this Court on the next adjourned date and answer the aforesaid question and issue if they have withdrawn the entire

amount including the 50% amount belonging to the Writ Petitioners' branch. If it is found that Respondents have indeed withdrawn and got transferred the amount belonging to the Writ Petitioners' branch, Respondents are directed by this Court to bring back the said amount. The details of the aforesaid amounts which has been transferred to various bank accounts are given at Exhibit "C" – page No.30 of the Interim Application.

5. It is the contention of the Writ Petitioners that from the aforesaid account of State Bank of India in J.N.P.T. Branch, the amounts have now been transferred to various bank accounts in State Bank of India branches namely; (i) Respondent No.16 – State Bank of India, J.N.P.T. Township Branch, Sector – 2, Taluka Uran, Navi Mumbai; (ii) Respondent No.17 – State Bank of India, ONGC, Uran Branch; and (iii) Respondent No.18 – State Bank of India, Panvel Branch.

6. Mr. Kulkarni would submit that a substantial amount has also been transferred in various other bank accounts held in the State Bank of India, J.N.P.T. Township Branch itself which belong to private Respondents. Sum and substance of Mr. Kulkarni's submissions is that 50% of the aforesaid amount belongs to the Writ Petitioners and not the Respondents admittedly.

7. In that view of the matter, copy of this order shall be served on the Respondents by the Advocate for Writ Petitioners by any permissible mode of service and appropriate Affidavit of service with tangible proof thereof shall be filed on or before the next date.

8. Respondents are directed to remain present personally in this Court on the next adjourned date alongwith their Advocates. If Respondents do not remain present on the next adjourned date even after receiving service of today's order, this Court shall issue appropriate process as per law to secure their presence. If it is found that they have abstained from remaining present despite service, appropriate Affidavit shall be filed by the Advocate for the Respondent Nos.16 to 18.

9. Authorized representative of Respondent Nos.16 to 18 are also directed to remain present and inform the details of the amount as depicted in the Bank accounts which are mentioned in Exhibit "C" of the Interim Application.

10. Copy of the Interim Application and this order shall be served on the Branch Manager of the aforementioned three Branches of State Bank of India i.e. Respondent Nos.16 to 18. They are directed to take immediate cognizance of this order and the details of the accounts stated at Exhibit "C". Respondent Nos.16 to 18 shall immediately freeze the amounts in the said accounts as at present.

Liberty is granted to the Respondents to move this Court for withdrawal of the frozen accounts. At this stage, after the above order is dictated, Mr. Gangan enters appearance for the private Respondents.

11. All parties are directed to act on a server copy of this order.

12. It is clarified that the idea behind passing this order is that the 50% amount belonging to the Writ Petitioner's branch is required to be secured.

13. Copy of the Interim Application is served on the Respondents' Advocate in the Court before me. Private Respondents are directed to take cognizance of the Interim Application as also this order and file appropriate Affidavit-in-Reply before the next date. Private Respondents shall inform the Court on Affidavit as to how are they entitled to entire 100% of the Award amount and on the basis of which authority they were allowed to withdraw the amounts. This is so because, the names of the Petitioners are found mentioned in the Award as Claimants according to Mr. Kulkarni.

14. On the next adjourned date, after hearing the Respondents, this Court shall pass appropriate directions to de-freeze the bank accounts held in the branches Respondent Nos.16 to 18 belonging to the private Respondents. Liberty to apply in case of difficulty.

15. Mr. Gangan seeks two weeks time. At his request, stand over to 1st August 2024.

[MILIND N. JADHAV, J.]

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by AJAY
TRAMBAK
UGALMUGALE
Date: 2024.07.18
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