



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5420 OF 2023

Kazi Akiloddin Sujaoddin Vs. The State of Maharashtra, through Collector,
Akola and others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. N.M. Kolhe, Advocate for petitioner
Mrs. Prachi Joshi, AGP for Respondent No.1
Mr. M.A. Kadu, Advocate for Respondent No.2

**CORAM: AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ.**

DATED : 16th JANUARY, 2024

Heard Mr. Kolhe, learned counsel for the petitioner, learned Assistant Government Pleader for respondent Nos.1, 2 and 4 and Mr. Kadu, learned counsel for the respondent No.3.

2. By this petition, the petitioner prays for a direction to the respondents to pay a rental compensation along with interest to the tune of Rs.75,57,36,780/- as well as additional damages of Rs. 12,35,34,390/-.

3. It is an admitted position, that the land Survey No. 1 admeasuring 1.17 HR situated at Mouza Akoli Bujurg, Tah. and Dist. Akola, was acquired by the respondent no.2 for the respondent No.3 by an

Award dated 04/8/2000. Being aggrieved by the said Award, the petitioner had filed Reference under Section 18 of the Land Acquisition Act, being Reference Case No.140/2000. Since possession of the land was taken earlier in point of time, rental compensation was awarded to the petitioner on the basis of the rate determined by the Land Acquisition Officer in his Award dated 04/8/2000. Consequent to the decision of the reference under Section 18 of the Land Acquisition Act on 02/08/2008, a claim was made for enhancement of the rental compensation on the basis of the Award passed by the Reference Court. The judgment of the Reference Court was challenged before this Court by the present petitioner by filing First Appeal No.1210/2008. Challenge was also raised by the respondents herein to the judgment of the Reference Court by filing First Appeal No.6/2009. The learned Division Bench of this Court vide judgment dated 17/6/2013, dismissed First Appeal No.1210/2008, filed by the present petitioner and allowed First Appeal No.6/2009 filed by the present respondent Nos.1 to 3 by setting aside the Award dated 02/08/2008 in L.A.C. No.140/2000 and dismissing the same. A further direction was issued directing the claimant / petitioner to refund the amount of compensation withdrawn by him to the State with interest @9% p.a. from the respective date

of withdrawal till the date of refund within three months from the date of the judgment. It is reported at the bar that this dismissal of First Appeal No.1210/2008 and allowing of First Appeal No.6/2009 by the judgment dated 17/6/2013, has been questioned by the petitioner before the Hon'ble Apex Court vide SLP No. 23947-23948/2013 in which on 12/8/2013, leave has been granted and subject to the petitioner keeping the securities provided to the High Court in terms of its order dated 17/03/2010, the operation, implementation of the judgment in First Appeal, directing refund has been stayed [Page 14 of the pursis].

4. This would clearly indicate that the judgment of Reference Court dated 02/8/2008 in LAC No. 140/2008 is no longer in existence as of now and, therefore, there is no enhanced rate determined by any Court other than what has been indicated in the original Award dated 04/8/2000. It is thus axiomatic that till such time, the SLP is decided and in case the judgment of the Reference Court is restored or any enhancement is granted by the Hon'ble Apex Court, regarding the rate of acquisition, the question of making payment of any rental compensation at any enhanced rate, specifically the rate determined by the Reference Court, which has since been set aside, would not arise. We, therefore,

do not see any reason to interfere in the present petition. The same is dismissed. No costs.

5. Needless to say, that in case the Hon'ble Apex Court restores the judgment in reference and / grants any enhanced rate for acquisition of the land, in that circumstances, it would be open for the petitioner to approach the authorities for grant of enhanced rental compensation on the basis of either the Reference Court judgment or any other rate which may be fixed by the Hon'ble Apex Court.

(SMT. M.S.JAWALKAR J.)

(AVINASH G. GHAROTE, J.)