



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

905 WRIT PETITION NO. 5154 OF 2024

THE MAHARASHTRA KRISHNA VALLEY DEVELOPMENT CORPORATION
THROUGH ITS EXECUTIVE ENGINEER

VERSUS

THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR AND OTHERS

Mr. G. B. Rajale, Advocate for the petitioner

Mr. B. A. Shinde, AGP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE 28th JANUARY, 2025

PER COURT :-

1. This petition takes exception to the impugned order dated 30/01/2023 passed by the Civil Judge Senior Division, Omerga below Exhibit 11 in Special Darkhast No. 51/2019 whereby order of attachment of the bank account of JD No. 3 came to be passed.

2. Admittedly, the lands bearing survey Nos. 336 and 339 situated at Omerga, Dist. Osmanabad belonging to the respondent nos.3 and 7 have been acquired and taken in possession for the construction of Irrigation Department's New Sub-Divisional Officer Building and Government Staff Quarters at Omerga, award came to be passed determining total amount of compensation at Rs.21,64,800/-. Aggrieved by the said award respondent no.2 filed reference under Section 18 of the Lands Acquisition Act being Land Acquisition Reference No. 19/2015 before Civil Judge Senior Division, Omerga. The said

reference came to be partly allowed by order dated 06/05/2017. Since the amount of compensation decided by the Reference Court was not paid, Special Darkhast No. 51/2019 came to be filed. It is thereafter First Appeal bearing No. 725/2020 was filed before this Court challenging the judgment and order passed in L.A.R. No. 19/2015. In the said first appeal direction was given to the petitioner to deposit 50% amount along with interest accrued till returnable date. Since the petitioner did not deposit 50% amount, an application was moved before the Execution Court for attachment of the account. By impugned order the said account came to be attached.

3 Learned counsel for the petitioner submits that the Execution Court ought to have stayed its hands in view of the fact that the order passed by this Court in First Appeal (Stamp) No. 23656/2019 dated 07/02/2020 was challenged by filing SLP before the Hon'ble Supreme Court. It is his contention that in spite of the said issue being raised before the Execution Court impugned order came to be passed.

4. There is no dispute about the fact that this Court has directed the petitioner to deposit 50% amount along with accrued interest granting on the amount of compensation directed by the Reference Court. This order was challenged before the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No(s). 40746/2022 and 40750/2022. The Hon'ble Supreme Court has rejected the said SLP with following

observation.

" *Delay in filing and refiling is condoned.
Permission to file SLP is granted.*

. The instant petition is filed assailing the interim order dated 07.02.2020 passed by the High Court of Judicature at Bombay. The High Court, while retaining the appeal for consideration, as an interim order had directed that 50% of the awarded amount be deposited by the applicant therein. Though, the learned counsel for the petitioner contends that sometime be granted for the deposit, we note that the order impugned itself is dated 07th February, 2020 and three years have elapsed. Therefore, we see no reason to accede to the said prayer made seeking extension of time to deposit the 50% of the amount awarded.

The petition is accordingly, dismissed.

Pending application(s), if any, shall stand disposed of."

5. The contesting respondents are entitled for the compensation. When the order of this Court of directing the petitioner to deposit 50% amount along with interest is upheld by the Hon'ble Supreme Court and request for giving further time for depositing the amount is refused, there would be no justification to cause interference in impugned order. It was suggested to the learned counsel for the petitioner about its intention to deposit amount but there was no response thereto from side of petitioner. In the result, no case is made out to grant any relief to petitioner. Hence, petition stands dismissed.

(R. M. JOSHI, J.)

ssp