



(1)

14-CA-3255-2019

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**14 CIVIL APPLICATION NO. 3255 OF 2019
IN WP/5702/2011**

Hassain Ali Wali Mohd Died Thr Lrs Guljar Hasan Ali
VERSUS
The State Of Maharashtra Through Collector Ahmednagar
WITH

**CIVIL APPLICATION NO. 3253 OF 2019
IN WP/5703/2011**

**WITH
WRIT PETITION NO. 5703 OF 2011
WITH
WRIT PETITION NO. 5702 OF 2011**

...

Mr. R. B. Temak, Advocate for Applicant.
Mr. P. D. Patil, AGP for Respondent-State.

CORAM : KISHORE C. SANT, J.

DATE : 1st APRIL 2025

PC :-

1. Heard the learned Advocate for the applicant-original claimant and the learned AGP for the Petitioner-State.
2. The claimant has filed an application for vacating interim relief. It is contended that the point on which this Court entertained the writ petition and granted stay, has already been decided by the Full Bench of

the Hon'ble Apex Court in the case of ***Lilawati Agarwal and Ors. Vs. State of Jharkhand***¹. In view of this, the Court is taking up this petition itself for final disposal at this stage.

3. The petitioner-Government has approached this Court challenging an order dated 30th April 2011 passed by the learned 3rd Joint Civil Judge, Senior Division, Ahmednagar rejecting the application of the petitioner. The petitioner has filed an application in executing proceeding bearing Special Darkhast No.207 of 1998. It is contended in the said application that the claimant is not entitled to receive interest from the amount of compensation under Sections 30(2), 23(2) and 28 of the Land Acquisition Act. It is further contended that the claimant has given calculation by calculating the interest under these sections which is against the judgment of the Apex Court in the case of ***Bhag Singh Vs. UT of Chandigarh***² which was thereafter referred to in the case of ***Lilawati Agarwal*** (supra). This Court in view of the above position, had passed interim order dated 27th March 2012 and the petition was kept pending.

1 (2016) 6 SCC 566

2 (1985) 3 SCC 737

4. Now, the learned Advocate for the claimant has placed on record a judgment in the case of ***Lilawati Agarwal*** (supra) wherein the Hon'ble Apex Court has confirmed the view taken in the case of ***K. S. Paripoornan Vs. State of Kerala***³. Paragraph No.10 of the which reads as under:-

“10. On a perusal of the principle stated in Raghbir Singh case and what has been clarified in K.S. Paripoornan case, we do not find that the three-Judge Bench decision runs counter to the authority in the Constitution Bench. It is also does not given a different interpretation to Section 30(2) than what has been stated by the Constitution Bench. In fact, K. S. Paripoornan clearly postulates about the awards that have been passed by the court after the Act has come into force which is in consonance with the ratio laid down in Raghbir Singh case. The three-Judge Bench has only observed that the restricted interpretation placed by the Constitution Bench in Raghbir Singh should not convey that Section 23(2) would not apply to the awards of the civil court pending at the time when the Act came into force or thereafter. Thus, the controversy with which the three-Judge Bench was dealing with was absolutely different and the view expressed by it is absolutely in accord with the principles laid down in Raghbir Singh case. Additionally, it is also in consonance with the provisions contained in Section 23(2) of the Act. Therefore, we do not see any reason to disagree with the view expressed in K. S. Paripoornan as we are of the convinced opinion that it has appositely understood the rule expounded in Raghbir Singh case.”

5. On going through this, it is clear that the claimant is entitled to receive interest under Sections 23(2) and 30(2) of the said Act. In view of above, this Court finds that nothing remained to be decided in the

3 (1994) 5 SCC 593

writ petition as the issue is now already covered in the judgment of *Lilawati Agarwal* (supra). Thus, in view of the order dated 27th March 2012 and judgment of the Hon'ble Apex Court in the case of *Lilawati Agarwal* (supra), this Court finds that there is no merit in the writ petition. The petition deserves to be dismissed. No order as to costs.

6. Needless to say that, the Executing Court would disburse the amount and proceed with the execution as early as possible and same shall be disposed off within six months in any case.

7. With this writ petitions stand disposed off.

8. Pending Civil Applications, if any, also stand disposed off.

[KISHORE C. SANT, J.]