

Chaitanya

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4481 OF 2022

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Rajaram Babanrao Suryvanshi,
Age : 50 Years, Occ.: Agriculturist,
R/at : Mangalvedha, Taluka
Mangalvedha, District Solapur.

...Petitioner

Versus

1. The State of Maharashtra, through Secretary, Department of Revenue, Mantralaya, Mumbai.
2. The District Collector, Solapur, District Solapur.
3. The Special Land Acquisition Officer And the Competent Authority, for National Highway and Sub-Divisional Officer, Mangalvedha, Taluka Mangalvedha, District Solapur.
4. National Highway Authority of India, 4th Floor, MTNL Telephone Exchange Building, Opp. CBD Belapur Railway Station, CBD-Belapur, Navi Mumbai – 400 614.
5. Mr Akeel Ahmed Sayyed Ahmed Kazi
6. Mr Mujahid Mohammed Yusuf Kazi
7. Shakeel Ahmed Sayyed Ahmed Kazi

Nos. 5 to 7 are residing at Shop No.5,
KMC Complex, 1301, Siddheshwar Peth,

...Respondents

near B.Q.K. Girl High School, Solapur –
413 003.

Mr Mahadeo Choudhari, for Petitioner.

Ms Chaitrali A. Deshmukh, for Respondent No.5.

Ms Rekha Musale, for Respondent No.6.

Mr Akshay P. Shinde, “B” Panel Counsel for the Respondent-State.

**CORAM : M.S. Sonak &
Jitendra Jain, JJ.**

DATED : 08 APRIL 2025

JUDGMENT (PER- M.S. SONAK):-

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.
3. The Petitioner claims to be the owner of Gat No.1973, measuring 6300 Sq.Mtrs., which was acquired by the Respondent-Highway Authority for widening National Highway No. 166 through the involvement of the Special Land Acquisition Officer (“SLAO”).
4. Regarding the above acquisition, the SLAO made an award determining compensation of Rs.1,96,69,792/— payable to the Petitioner.

5. Despite the aforesaid determination by the SLAO, since the compensation amount was not being paid to the Petitioner, the Petitioner instituted the present Petition seeking the following reliefs:

- (i) For a writ of mandamus to Respondent Nos.1 to 4 to disburse the compensation amount in terms of the SLAO's Award dated 28 January 2019 to the Petitioner;
- (ii) For a writ of mandamus to Respondent Nos.1 to 4 to challenge the direction given by the Revenue Minister in the meeting held on 27 January 2022, set the same aside so that the entire compensation amount determined the SLAO's Award dated 28 January 2019 is paid to the Petitioner.

6. Mr Choudhari learned counsel Petitioner submitted that there is also an additional prayer for the award of interest due to delayed payment or the delaying payment of the compensation amount. However, prayer clause (a) of the original Petition seeks to call for records from SLAO, and prayer clause (b) states that pending the hearing and final disposal of the Writ Petition, the third Respondent may be directed to pay compensation amount with interest for delayed period to the Petitioner and similarly situated farmers forthwith. Amended prayer clause (a-1) seeks no interest; prayer clause (a-2) concerns the Minister's directions/orders and speaks nothing about interest. Prayer clause (b-1) again

states that pending the hearing and final disposal of this Writ Petition, Respondent Nos.1 to 4 may be directed to pay the compensation amount to the Petitioner in terms of the Award dated 28 January 2019. Thus, at least in the Petition, we do not find any final relief for interest payment on the delayed payment of compensation.

7. On 03 January 2024, the Co-ordinate Bench of this Court comprising Nitin Jamdar, J. (as His Lordship then was) and M. M. Sathaye, J., in an attempt to crystallise the disputes between the parties, made the following order :

“ Heard learned Counsel for the parties.

2. The Petitioner is before us making a grievance that in spite of compensation under the National Highway's Act determined in Petitioner's favour to the tune of Rs. 1,96,69,792/-, the same has not been paid. Subsequently, during the pendency of the Petition, Petitioner has been given an amount of Rs. 1,81,08,696/- and, therefore, the dispute now remains regarding the balance amount of Rs. 15,61,096/- and the claim of interest.

3. On a query to the learned Counsel for the Respondent as to the balance amount as per the award, the learned Counsel has placed on record a communication dated 9 October 2023 stating that there was an objection received and there is a dispute which has been forwarded under a complaint dated 3 January 2023 regarding ownership and apportionment and, therefore, the balance amount of Rs. 15,61,096/- has been deposited in the Court of District and Sessions Judge, Solapur. The learned Counsel for the Petitioner submitted that this deposit was entirely unnecessary, and there is no such dispute on the amount and it does not pertain to the present award.

4. Now that since the amount has been deposited in the Court, we permit to the Petitioner to make an Application to the District and Sessions Judge, Solapur with the prayer for withdraw the said amount since it is the case of the Petitioner that this dispute does not pertain to land under acquisition. If the Petitioner makes this Application within a

period of three weeks, the District and Sessions Judge, Solapur will consider the said Application as to whether the contention of the Petitioner that it does not pertain to the land in acquisition is correct or otherwise, and if it so, proceed to pass appropriate order. If the learned Judge is of the opinion that there exists dispute as regards apportionment, then appropriate orders thereupon can be passed. We have not commented on the merits of the Petitioner's contentions.

5. To enable completion of this exercise we defer the hearing of this petition to 22 April 2024. Registry to send a copy of this Order to the District and Sessions Judge, Solapur."

8. Pursuant to the liberty granted by the above order dated 03 January 2024, the Petitioner applied to the District Court at Solapur. There is no clarity on whether the District Court has disposed of such an application. In any event, the records bear out, and it was admitted by Mr Choudhari, learned counsel for the Petitioner, that as of date, from out of the total compensation of Rs.1,96,69,792/- determined in favour of the Petitioner in the Award dated 28 January 2019, the Petitioner has received an amount of Rs.1,81,08,696/-. Only the balance of Rs.15,61,096/- and the interest claim remains unsettled.

9. Mr Chaudhary, learned counsel for the Petitioner, submitted that there was no dispute about the Petitioner's title and, consequently, entitlement to the compensation. He submitted that the dispute raised by the 5th and 6th Respondent is ex-facie frivolous, and based upon the same, the 5th and 6th Respondent has no right to interfere with the award or apportionment of compensation to the Petitioner. He pointed out that the issue of the status of the said property, including the acquired lands, had already been settled by the

appropriate authorities. Based on the orders made by the Minister, who had no jurisdiction in the matter, no dispute could now be raised about the status of the acquired lands and any compensation claim based thereupon.

10. Mr Chaudhary submitted that in terms of Section 3-H (3), the SLAO/Competent Authority was determined to decide the issue of entitlement. Having decided such an issue, there was no question of any challenge by the 5th and 6th Respondents or any other party like Subhash Jawale to the compensation amount determined in the Award made by the SLAO/Competent Authority.

11. Mr Chaudhary submitted that this was a fit case where the writ of mandamus must be issued to the Respondent Nos.1 to 4 to pay the entire compensation amount together with interest to the Petitioner. The directions to deposit the amount of Rs.15,61,096/- to the District Court was illegal and ultra vires, and the same should be set aside. He submitted that the Rule in this Petition may, therefore, be made absolute in the above terms.

12. Mr Shinde learned A.G.P., at the outset, submitted that the deposit of Rs. 15,61,096/- with the District Court was on account of objections raised by Subhash Jawale in respect of only 500 Sq. Mtrs. out of the acquired land measuring 6,300 Sq.Mtrs. He submitted that Subhash Jawale has not been impleaded as Respondent in this Petition. He submitted that the interest of justice would be best served if the dispute

regarding 500 Sq.Mtrs of the acquired land is resolved by the Reference Court, i.e. the Principal Court of the original civil jurisdiction or the District Court at Solapur. He submitted that this Court should not direct the payment of this amount to the Petitioner in the absence of Subhash Jawale. In any event, this Court has already granted liberty to the Petitioner to apply before the District Court and Solapur for payment of the said amount. The District Court at Solapur will hear the Petitioner and Mr Subhash Jawale and decide on this issue.

13. Mr Shinde submitted that this was not a fit case for awarding any interest. He submitted that several disputes were raised by several parties in this matter. The matters were pending before this Court, the Revenue Authorities and the WAQF Authorities. He submitted that interim orders prevented the Respondents from disbursing the amounts to any parties. In these circumstances, no liability for payment of interest should be foisted on the Respondents because this was not a case where the Respondents delayed the payment of compensation, but because the Respondents could not pay the compensation due to Court orders.

14. Mr Shinde finally submitted that this Petitioner may be disposed of by referring the disputes between the Petitioner and Subhash Jawale over 500 Sq. Mtrs of the acquired land to the District Court at Solapur. He submitted that this Court would be best suited to decide this issue and the consequential issue of compensation of Rs.15,61,096/-.

15. Mr Shinde submitted that under orders made by this Court, the 5th and 6th Respondents were given leave to file a Civil Suit to establish their claim in the acquired property. Initially, the 5th and 6th Respondents directly filed a Reference before the District Court at Solapur and even secured interim orders restraining the Respondents from disbursing compensation to the Petitioner. However, since such a direct Reference Application before the District Court was incompetent, this Reference was rejected. After that, under the liberty granted by this Court, the 5th and 6th Respondents have filed a suit claiming interest in the acquired property. Accordingly, Mr Shinde submitted that the dispute regarding the acquired property or the larger property of which the acquired property is only a part can be sorted out in the civil suit filed by the 5th and 6th Respondents.

16. Ms Rekha Musale and Ms Chaitrali Deshmukh, the learned Counsel for Respondent Nos. 5 and 6, submitted that the Respondents they represent have already filed Special Civil Suit No. 288 of 2022, which is pending in the Court of Civil Judge Senior Division at Pandharpur. They submitted that though the Petitioner was not initially impleaded as a party in the said suit, a Civil Miscellaneous Application was moved to seek impleadment. This application was allowed by the Civil Court on 31 January 2024, and consequently, the Petitioner is now a party to the said Civil Suit.

17. Ms Musale and Ms Deshmukh submitted that the parties they represent are the actual owners of the acquired property and will establish their rights, titles, and interests by leading oral and documentary evidence before the Civil Court. They submitted that since there was a serious dispute regarding apportionment, the Petitioner should not be paid the entire compensation amount or interest. They submitted that the issue of compensation payment should be deferred until the Civil Suit is disposed of.

18. The rival contentions now fall for our determination.

19. The record shows that the SLAO/Competent Authority, by Award dated 20 January 2019, determined that the compensation of Rs.1,96,69,792/—was payable to the Petitioner. The SLAO/Competent Authority decided on this issue of entitlement, given the provisions of 3H (3) of the National Highways Act, which empowered him to decide on the issue of entitlement or rather express his opinion on the issue of entitlement.

20. However, it appears that a dispute was raised by one Subash Jawale regarding 500 Sq. Mtrs. of the acquired property measuring 6300 Sq.Mtrs. Therefore, the compensation amount proportionate to 500 Sq.Mtrs. i.e., Rs.15,61,096/- was directed by the SLAO/Competent Authority to be deposited before the District Court. Though there is no record of a formal reference to the District Court, it is apparent that the amount was directed to be deposited

before the District Court on account of this dispute, which is related to 500 Sq.Mtrs. of the acquired property.

21. The interests of justice would be met if the SLAO/Competent Authority now makes a formal Reference to the District Court so that the District Court can decide the issue of apportionment of this amount of Rs.15,61,096/- between the Petitioner and Subhash Jawale - the objector. The Petitioner is free to raise all contentions in support of his entitlement and apportionment before the District Court upon such a formal reference being made.

22. Such reference is directed to be made within two months from today, and the District Court at Solapur must dispose of this reference as expeditiously as possible, following the law and the evidence that the parties might lead. This amount of Rs.15,61,096/- will abide by the outcome of such a reference. Until then, this amount must be invested in a nationalised bank, if this exercise is not already carried out by the reference Court. With this, the party who is ultimately held entitled to this amount will be able to receive this amount with the interest that has accrued.

23. At this stage, it will not be appropriate to release this amount or to direct the release of this amount to the Petitioner. This is mainly because the Petitioner has not even bothered to implead Subhash Jawale as a Respondent to this Petition. Secondly, Section 3H (4) provides that if there is a dispute regarding apportionment, then it is not for the

SLAO/Competent Authority to decide such dispute. Still, the matter must be referred to the Principal Civil Court of the original jurisdiction of the district where the acquired property is situated, i.e. the District Court at Solapur.

24. Respondent Nos.5 and 6 also claimed rights and interest in the entire acquired property. There is litigation pending on this issue before different forums like the Revenue Authorities, the WAQF Authorities and now the Civil Court. These Respondents filed Writ Petition (St) No. 7522 of 2021 in this Court, challenging the rejection of their objections by the SLAO/Competent Authority.

25. On 23 March 2021, this Court disposed of this Writ Petition by making the following order:-

“(i) The Petitioners who have fled the above Writ Petitions shall instead file Suits before the Civil Court or take out appropriate proceedings before the concerned authority seeking appropriate reliefs, within a period of one week from today and forthwith furnish a copy of the Complaint/Application alongwith an application seeking ad-interim/interim reliefs, to the respective Advocates for the Respondents.

(ii) In the said Suits/appropriate proceedings, the Petitioners shall take out an application seeking interim/ad-interim relief/s with regard to the disbursement of compensation. The said Application shall be disposed of by the competent Civil Court or the appropriate authority, strictly on merits, without being influenced by any other Order previously passed by this Court or the present Order and without granting adjournment/s to either sides, within a period of two weeks from the date of filing

of such application.

(iii) The compensation shall not be disbursed for a period of three weeks from today. However, in the event of the Petitioners not being successful in obtaining any restraint Orders qua the disbursement of compensation, within three weeks from today, the compensation shall be forthwith disbursed.

(iv) All contentions of the parties are kept open including issue of limitation/jurisdiction.”

26. Instead of filing a Civil Suit, Respondent Nos. 5 to 7, possibly under incorrect legal advice, filed a Reference before the Civil Court at Pandharpur. The Civil Court at Pandharpur ordered status-quo on 19 April 2021, which was extended from time to time. The Civil Court then framed a preliminary issue as to whether the reference was maintainable and finally, on 20 December 2021 rejected the Reference by resorting to the provisions of Order VII Rule 11 of Code of Civil Procedure.

27. These Respondents then applied before the Hon'ble Minister for Minorities, contending that the subject property is a WAQF property and secured some orders. One of the orders impugned in this Petition is the order made in the meeting held on 27 January 2022 by which the Hon'ble Minister (Minorities) called for a report from the WAFQ Board, Aurangabad and directed that till the report is received, the compensation amount should not be disbursed to any parties.

28. There was correspondence between the authorities and the WAQF Board or the Deputy Secretaries of the Minorities

Department. The Petitioner and these Respondents also joined in the correspondence. However, all that is not very relevant now because Ms Musale and Ms Chaitrali Deshmukh pointed out that these Respondents have now instituted a Special Civil Suit No. 288 of 2022 in the Court of Civil Judge Senior Division at Pandharpur, raising several contentions. They pointed out that now even the Petitioner has been impleaded as a Defendant in the said suit, though Mr Choudhary, the learned Counsel for the Petitioner, submitted that he has no knowledge or notice of such impleadment.

29. Now that the suit is pending, this court is not obligated to adjudicate seriously disputed issues about the status of the subject property, title, apportionment of compensation, etc. Any determination of such matters will involve complex questions of law and fact, which cannot be undertaken in the exercise of summary jurisdiction under Article 226 of the Constitution.

30. Therefore, without entering into such disputes, this Court can only clarify that the receipt of compensation by the Petitioner will have to ultimately abide by the orders that shall be made in Special Civil Suit No. 288 of 2022, provided, of course, the Plaintiffs in the said suit not only implead the Petitioner but apply for appropriate reliefs in this regard from the Civil Court. All parties' contentions in this regard, including contentions based on limitation, *res-judicata*, want of jurisdiction, etc., are explicitly kept open.

31. The order made by the Hon'ble Minister has now become redundant, and based on the said order, there is no question of either disbursing or withholding any compensation. In any event, a major portion of the compensation i.e. Rs.1,81,08,696/- out of the total determined compensation of Rs.1,96,69,792/- has already been received by the Petitioner. The balance amount of Rs.15,61,096/- is not retained on account of any disputes raised by Respondent Nos.6 and 7 or the Hon'ble Minister's order but on account of a dispute with Subhash Jawale, who is not even impleaded as a Respondent in this Petition.

32. As noted above, there is no clear prayer for grant of interest. Besides, there are contentious issues regarding the alleged delay in payment of the compensation. In such circumstances, it would not be appropriate for this Court to go into the issue of interest payment in the first instance. The interests of justice would be met if the Petitioner is permitted to represent the SLAO/Competent Authority by giving full particulars and details claiming interest. If such representation is made within four weeks, the SLAO/Competent Authority must dispose of the same, per law and on its own merits, within three months of receipt. The SLAO/Competent Authority must hear the Petitioner and the NHAI Authorities and pass a reasoned order. If the Petitioner is aggrieved, it will be open to the Petitioner to take out such proceedings as may be permissible under the law to pursue the interest claim.

33. This Petition is, therefore, disposed of by issuing the following directions and clarifications: -

- (a) The SLAO/Competent Authority, within two months from today, is directed to make a Reference to the District Court, Solapur, to decide the issue of apportionment of the amount of Rs.15,61,096/- between the petitioner and Subash Jawale and the District Court must dispose of this Reference in accordance with the law and the evidence that the parties might lead, as expeditiously as possible.
- (b) The Petitioner is permitted to raise all contentions in support of his entitlement and apportionment before the District Court upon such a formal Reference being made.
- (c) The compensation amount received by the Petitioner will now abide by the outcome of Special Civil Suit No.288 of 2022, provided the Petitioner is indeed impleaded as a Defendant and appropriate reliefs are sought regarding such compensation amount.
- (d) All contentions of all parties before the Reference Court or the Civil Court are explicitly left open.
- (e) The Petitioner is permitted to make a representation to the SLAO/Competent Authority within four weeks from today, seeking interest on

the delayed payment of the compensation amount. The SLAO/Competent Authority must dispose of this representation, in accordance with law and on its own merits, within three months of its receipt. The SLAO/Competent Authority must hear the Petitioner and NHAI Authorities and pass a reasoned order.

- (f) If a decision is taken to award some interest to the Petitioner, the same must be paid to the Petitioner within a month of such decision. The Petitioner shall accept such payment but the same shall ultimately abide by the outcome of the Reference proceedings and the Civil Suit.
- (g) If the Petitioner is aggrieved by the decision SLAO/Competent Authority, it will be open to the Petitioner to take out such proceedings as may be permissible under the law to pursue the interest claim.

34. The rule is disposed of in the above terms without any costs order. All concerned to act on an authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)