

Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15379 OF 2023

Suman Govind Kude and ors. ...Petitioners
Versus
The Competent Authority and Sub-Divisional ...Respondents
Officer and anr.

WITH

WRIT PETITION NO.15383 OF 2023

WITH

WRIT PETITION NO.15380 OF 2023

WITH

WRIT PETITION NO.15381 OF 2023

WITH

WRIT PETITION NO.15382 OF 2023

WITH

WRIT PETITION NO.7422 OF 2024

WITH

WRIT PETITION NO.7491 OF 2024

WITH

WRIT PETITION NO.7611 OF 2024

WITH

WRIT PETITION NO.11061 OF 2024

WITH

WRIT PETITION NO.11709 OF 2024

WITH

WRIT PETITION NO.11726 OF 2024

WITH

WRIT PETITION NO.11728 OF 2024
WITH
WRIT PETITION NO.11771 OF 2024
WITH
WRIT PETITION NO.11848 OF 2024
WITH
WRIT PETITION NO.11849 OF 2024
WITH
WRIT PETITION NO.14815 OF 2024
WITH
WRIT PETITION NO.15356 OF 2024
WITH
WRIT PETITION NO.15851 OF 2024
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WRIT PETITION NO.3055 OF 2025
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WRIT PETITION NO.3056 OF 2025
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WRIT PETITION NO.3057 OF 2025
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WRIT PETITION NO.3059 OF 2025
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WRIT PETITION NO.3060 OF 2025
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WRIT PETITION NO.3061 OF 2025
WITH
WRIT PETITION NO.3062 OF 2025

WITH
WRIT PETITION NO.3063 OF 2025
AND
WRIT PETITION NO.3081 OF 2025

Mr. Anil D'souza with Mr. Mark Britto, Mr. Elaine Fargoes, Mr. Ernest Tuscano, Mr. Nitin Bhoir, Mr. Yogesh Rawool and Ms. Jahnvi Nijampurkar i/by Mr. S. S. Redekar, Advocates for the Petitioners.

Mr. Rakesh Singh i/by M/s M.V. Kini & Co., Advocate for the Respondent No.2.

Mr. B. V. Samant, Addl. GP with Mr. R.S. Pawar, AGP for the State in WPs No.7491 of 2024, 7611 of 2024, 11061 of 2024, 11709 of 2024, 11726 of 2024, 11728 of 2024, 11771 of 2024, 11848 of 2024, 11849 of 2024, 14815 of 2024, 15356 of 2024, 15851 of 2024, 3055 of 2025, 3056 of 2025, 3057 of 2025, 3058 of 2025.

Mr. S. R. Crasto, AGP for the State in WPs No.3059 of 2025, 3060 of 2025.

Mr. A. A. Purav, AGP for the State in WPs No.3061 of 2025, 3062 of 2025.

Mr. M. S. Bane, AGP for the State in WPs No.3063 of 2025 and 3081 of 2025.

CORAM **M.S. Sonak &
Jitendra Jain, JJ.**
DATED: **21st March 2025**

PC (Per M. S. Sonak, J.):

1. Heard learned counsel for the parties.
2. Learned counsel for the parties agree that these petitions can be disposed of by a common judgment and order since common issues of law and fact arise. Writ Petition No.15379 of 2023

(Suman Govind Kude and ors. Vs The Competent Authority and Sub-divisional Officer and anr.) is taken as the lead petition.

3. Rule in each of the petitions. The rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.

4. The Petitioners' grievance is that 10% of the market value out of the entire compensation amount payable to them for the compulsory acquisition of their lands was deducted by the first Respondent relying upon Government Resolution (GR) dated 15th July 2010. The Petitioners submit that this Court struck down this GR in the case of *Diksha Dilip Pawar and ors. Vs. The Competent Authority and Sub-Divisional Officer and Ors.*¹, Writ Petition No. 3545 of 2020, decided on the 13th of April 2022.

5. The Petitioners accordingly contend that this deduction of 10% of the market value was without the authority of law, and the first Respondent must be directed to pay this amount together with interest to the Petitioners as soon as possible.

6. Mr. R. S. Pawar, Assistant Government Pleader, has, quite fairly, not disputed that the issue raised in this petition stands covered by the decision of this Court in *Diksha Dilip Pawar* (supra). He, however, submits that calculations still must be made in individual cases, and he opposes the grant of interest claimed by

¹ (2022) 4 Mh.L.J. 687

the Petitioners. He submits that no interest should be directed to be paid since the deductions were made based on the GR, which was struck down only on 13th April 2022 and not earlier.

7. The Co-ordinate Bench in the case of *Diksha Dilip Pawar* (supra) struck down the GRs based upon which the deduction of 10% of the market value was made for Class-II occupancy lands. This Court held that compulsory acquisition by the State is not the same as voluntary alienation by the Class-II occupants. Therefore, there was no warrant to make such a deduction. This is clear from the reading of the decision delivered on 13th April 2022, in which it was declared that the GR dated 15th July 2010 violated Article 14 of the Constitution of India. It was further held that Respondents did not have the authority to deduct 10% from the market value on account of the compulsory acquisition of their lands.

8. In yet another matter of *Suresh Zipor Salkar and ors. Vs. The Competent Authority and Sub-Divisional Officer and ors. Writ Petition No.5587 of 2021 decided on 5th May, 2022*, the Co-ordinate Bench, relying on *Diksha Dilip Pawar* (supra) disposed of the petition by granting reliefs in terms of prayer clauses (a) to (c) of the said petition, which are similar if not the same as those in these petitions.

9. Having regard to the above two orders, all these petitions will have to be allowed, and the first Respondent will have to be directed to pay the 10% deducted amount together with appropriate interest thereon. We have considered the rival

contentions regarding the interest payment on the amounts that must now be paid to the Petitioners and are satisfied that some interest must be paid to the Petitioners for reasons briefly discussed hereafter.

10. In terms of the National Highways Act read with the decision of the Hon'ble Supreme Court in the case of *Union of India Vs. Tarsem Singh and others*², the compensation amount must be determined in terms of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (**said Act**). Therefore, the Petitioners would be entitled to interest at the statutory rate of 12% p.a. on the deducted amount from the date of Section 3A notification till the date of award under Section 3G of the National Highways Act.

11. For the period beyond the making of the award, no interest is specified under the statute. However, the Co-ordinate Bench of this Court in the case of *Roshanbi Aziz Motiwala and ors Vs. The Competent Authority and Deputy Collector and ors., Writ Petition No.1910 of 2022 decided on the 6th, April, 2023* has awarded and directed payment of interest at the rate of 9% p.a. post the making of the award under Section 3G of the National Highways Act in the circumstances very similar to those concerning the present petitions.

12. Therefore, by following the above precedents, we direct the first Respondent to pay to each of the Petitioners in these petitions

² (2019)9 Supreme Court Cases 304

the deducted amount together with interest thereon at the rate of 12% p.a. from the date of Section 3A notification till the date of award under Section 3G of the National Highways Act and further interest at the rate of 9% p.a. from the date of award under Section 3G of the National Highways Act till actual payment. We further direct that such actual payment must be made as expeditiously as possible and, in any event, within two months of uploading this order.

13. Mr. Anil D'Souza, learned counsel for the Petitioners, states that the Competent Authority already has the Petitioners' bank details. In any event, such bank details should be provided to the Competent Authority within ten days of uploading this order. The Competent Authority need not wait until the bank details are provided because the Petitioners' bank details are not immediately necessary to make the refund calculations.

14. The first Respondent must, within two months from the date of uploading of this order, ensure that the amounts as now directed by us are transferred into the Petitioners' bank accounts without requiring the Petitioners to approach him. This direction is issued because some submissions were made about how parties are forced to approach officials repeatedly to get the amounts due to them under the law and the vices associated with such payments.

15. Although there is no evidence to support any allegations of wrongdoing in the current cases, the nature and volume of the cases we encounter, where legitimate payments are unnecessarily

withheld by officials or where undue payments are hurriedly made, mean we cannot simply dismiss the submissions received. The first Respondent must file the compliance in this Court after providing a copy of it to the learned counsel for the Petitioners by 10th June 2025.

16. If the amounts are not paid within the time now indicated or if no compliance report is filed confirming the payments by 10th June 2025, the first Respondent is directed to pay additional interest of 3% p.a. over and above the interest of 9% p.a. now directed by us. This extra amount will have to be paid to the Petitioners initially through the State funds. Still, after that, the state must recover this additional amount from the first Respondent or the officials responsible for the delay because, for inaction, delay or indolence of the Government Officials, it is high time that the State Exchequer or the taxpayer should not be burdened.

17. In other matters, directions were issued to pay amounts within four weeks. But in this case, considering Mr Pawar's fair approach and his request, we have granted the first Respondent eight weeks' time to comply with our direction. This is sufficient time, mainly since we are dealing with the Petitioners, several of whom are reported to be tribals who have lost their lands and a portion of the compensation due to them was unjustifiably deducted.

18. The Rule is made absolute in all these petitions in the above terms. There shall be no order for costs. All concerned to act on the authenticated copy of this order.

(Jitendra Jain, J.)

(M. S. Sonak, J.)