IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6538 OF 2024

Baburao @ Bhaurao Dattatraya Shete
VERSUS
The State Of Maharashtra And Another
...
Ms. L. R. Thakur h/f Mr. L. C. Patil, Advocate for the Petitioner
Mr. B. V. Virdhe, AGP for Respondent-State
.....

CORAM : AJIT B. KADETHANKAR, J.

DATED : 31ST OCTOBER, 2026

P.C. :-

. For the purpose of constructing Minor Irrigation Tank at Mandegaon, Tq. Barshi, petitioner's land was acquired under compulsory acquisition by the respondents-Authorities. After complying the entire procedure enumerated in the Land Acquisition Act, the Special Land Acquisition Officer offered the compensation and declared the award.

2. Feeling dissatisfied with the offer, the petitioner has filed proceedings under Section 18 of the Land Acquisition Act before the Reference Court. After assessing the evidence on record, the Reference Court vide its judgment and award dated 19.07.2007 partly allowed the Land Acquisition Reference Application No.159 of 1992 filed by the petitioner.

3. Since the Acquiring Body failed to pay the compensation in terms of the judgment and award by the Reference Court, the petitioner was constrained to insist

execution proceedings vide Regular Darkhast No.31 of 2010 under Order XXI Rule 11 of the Civil Procedure Code. It appears that since after 12.03.2012, the petitioner/decree holder did not take any steps required in furtherance of the execution proceedings. As such, the Executing Court was constrained to close the proceedings for want of taking steps by the decree holder. Feeling aggrieved thereby, the petitioner/claimant is before this Court.

4. It is submitted that the petitioner is a poor, aged and illiterate or less literate person. There was was a communication gap between the petitioner and his Advocate. It is further submitted that it was the duty of the Advocate to take appropriate steps to take the execution proceedings to its logical end. However, on failure of the learned Advocate looking after the matter, the petitioner shall not be deprived of the fruits which he has successfully obtained after litigating before the Reference Court. In view of this, a prayer is made to allow the Writ Petition and to restore the execution proceedings.

5. Mr. B. V. Virdhe, learned AGP for the responding side would strongly object this prayer. He would submit that the proceedings are closed down in March 2012. The reasons for closure of the proceedings is lethargy and negligence on the part of learned Advocate for the claimant to prosecute the execution proceedings diligently. He would submit that the Writ Petition is filed in the year 2024 i.e. atleast 12 years after closure of the execution proceeding. Thus, he submits that if

the proceedings are restored, the claimant may not be granted any benefit for the period of dismissal of the execution proceedings till the date of its restoration.

6. Heard both the sides extensively. The fact is not in dispute that the petitioner is a land looser whose sole source of livelihood was acquired under the compulsory acquisition. His entitlement is fixed by the Reference Court in the proceedings under Section 18 of the Act. The petitioner has diligently conducted those proceedings and has succeeded in getting the fruits of his litigation. However, due to the non communication of the proceedings by the learned Advocate for the decree holder, the petitioner has suffered loss of the fruits of his entire struggle in the interest of justice. In my view the petition must succeed.

7. It is also not a case that the Acquiring Body has deposited the amount in the Executing Court pursuant to the judgment and award passed by the Reference Court. Infact it is incumbent on the part of the Acquiring Body to comply the judgment and award passed by the Reference Court even without there being any execution proceedings. It is also not a case that the Acquiring Body has challenged that award in this Court, or the said judgment and award is recalled, set aside or modified by any Court.

8. The Acquiring Body certainly cannot take undue advantage of failure of learned Advocate for the petitioner to prosecute the execution proceedings, nor the Acquiring Body can get itself absorb the liability fastened upon it by the

Reference Court in the judgment and award. Infact this is a fit case wherein a Contempt Proceedings has to be initiated against the responsible officer of the Acquiring Body for not complying the judgment and award passed by the Reference Court. In view of this, the Writ Petition stands allowed. Hence, I pass following order:

ORDER

a. Writ Petition stands allowed.

b. Order dated 12.12.2012 passed by learned Civil Judge Senior Division, Bhoom in Special Darkhast No.31 of 2010 is quashed and set aside. The Darkhast proceeding stands restored to its original position.

c. The petitioner shall appear before the Executing Court on 19.11.2026.

d. To clarify, the petitioner shall not be entitled for any interest or statutory benefit for the period of delay i.e. from the closure of the executing proceeding till 19.11.2026.

e. In view of the observations made by this Court, as regards to failure of the Acquiring Body to comply the judgment and award in Land Acquisition Reference No.159 of 1992, it is apparently an contemptuous act. Hence, this Court takes suo-moto cognizance of the contempt and issues a simple notice to the respondents, returnable on 07.12.2026.

f. In the meantime, it is clarified that the Executing Court shall proceed the matter in accordance with the law and shall not wait for the decision in the Contempt Petition initiated by this Court *suo moto.*

g. Civil Application if any, stands disposed of.

(AJIT B. KADETHANKAR, J.)

Rushikesh/2026