IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9962 OF 2024

Chandrakant Gangaram Shinde and Ors …Petitioners
Versus
The State Of Maharashtra and Ors …Respondents

WITH
WRIT PETITION NO. 10003 OF 2024

Dilip Kisanrao Shinde …Petitioner
Versus
The State Of Maharashtra and Ors …Respondents

Mr. Aniesh Jadhav with Amisha Lolusare, for the Petitioners.
Ms. S.D. Vyas, Addl. G.P.,with M.S. Bane, AGP for the Respondent Nos. 1 and 2.
Mr. Yogesh Vijay Patil, for the Respondent No. 6, MSRDC.

CORAM: MANISH PITALE &
SHREERAM V. SHIRSAT, JJ.

DATE: 9th JANUARY 2026.

P.C.

1. Heard learned counsel for the petitioners, Learned AGP for Respondent Nos. 1 and 2 and learned counsel appearing for Respondent No.6. In the peculiar facts of the present case, Respondent Nos.3 to 5 - banks cannot be said to be contesting respondents and therefore, even though they are not represented despite service, the hearing and disposal of this petition need not await their presence.

2. By the present petition, the petitioners have challenged a notice dated 22nd February, 2024 issued by the Respondent No.2, i.e., the Competent Authority and Sub-Divisional Officer. By the said notice, the petitioners were called upon to refund excess amount allegedly paid to them in the context of acquisition of their land and structures standing thereon. It is claimed that after the award was pronounced on the basis of negotiations between the parties, in the light of a valuation report obtained subsequently, the Respondent No.2 found that an amount of Rs.1,10,48,308/- was paid in excess to the petitioners. The notice does not specify as to what was the basis for claiming that such excess amount was paid and copy of the valuation report was not even furnished to the petitioners.

3. The petitioners are also aggrieved by the communication dated 22nd February, 2024, issued by the Respondent No.2 to the Respondent Nos.3,4 and 5- banks, thereby freezing the accounts of the petitioners.

4. The learned counsel for the petitioners submits that proper opportunity of responding to the notice was not given to the petitioners and there is violation of natural justice, as even a copy of the valuation report was not furnished to the petitioners and the notice does not specify the ground on which it was claimed that excess amount was paid. It is further submitted that there is no source of power for the Respondent No.2 to issue the impugned communication dated 22nd February, 2024, to the

aforesaid respondent- banks to freeze the bank accounts of the petitioners. It is submitted that the impugned actions of the Respondent No.2 are wholly arbitrary and that the petition deserves to be allowed.

5. On the other hand, the learned AGP appearing for Respondent Nos. 1 and 2 submits that the petitioners themselves had given an affidavit when the compensation was disbursed that they would refund any amount that may be subsequently found to be excessively disbursed to them. Attention of this Court was invited to the contents of the affidavit, wherein it was stated on behalf of the petitioners that in case recovery of excess amount was occasioned, the same could be recovered as arrears of Land Revenue by recourse to the Provisions of the Maharashtra, Land Revenue Code, 1960. It was submitted that this was the source of power for the Respondent No.2 to act against the petitioners.

6. Reference was made to the reply affidavit placed on record wherein it was stated that the subsequent valuation report revealed that one of the structures for which compensation was disbursed to the petitioners was not affected by the acquisition and the right of way. On this basis, it was submitted that petition deserved to be dismissed.

7. Learned counsel appearing for contesting Respondent No.6 supported the submissions of the Learned AGP. He further added that being the beneficiary under the acquisition and the body that made available the funds for disbursing compensation to the petitioners, the interest of the

said respondent ought to be protected by this Court directing the petitioners to keep the excess amount available at all times, even if the present petition is to be considered positively.

8. We have considered the rival submissions. We find that the award in the present case was issued pursuant to negotiations between the petitioners and Respondent No.2. The negotiations led to the Respondent No.2, as the competent authority, offering compensation amount of Rs.2,68,90,129/-. It is an admitted position that the entire amount was disbursed to the petitioners. Thereafter, the impugned notice dated 22nd February, 2024, was issued, claiming that in the light of it being found that the valuation determined by the Public Works Department earlier was showing excessive amount payable to the petitioners, they were required to refund excess amount of Rs.1,10,48,308/-. On the same day, Respondent No.2 issued the impugned communication dated 22nd February, 2024, to freeze the bank accounts of the petitioners.

9. We find that the notice dated 22nd February, 2024, does not refer to any specific ground on which it was found that the aforesaid excessive amount had been disbursed to the petitioners. It simply referred to a report submitted by the Public Works Departments stating that the valuation determined earlier resulted in excessive amount being disbursed to the petitioners. There is nothing to show that a copy of the report was

furnished to the petitioners. Thus, the petitioners were hampered in effectively responding to the said notice dated 22nd February, 2024.

10. It is settled law in terms of judgment of the Supreme Court in the case of **Mahinder Singh Gill vs Chief Election Commissioner,**[1] that the authorities have to justify their orders or notices on the basis of the contents thereof and that reasons cannot be supplied in affidavits filed in the Court. The reasons stated in the reply affidavit filed on behalf of Respondent Nos. 1 and 2, therefore, cannot be considered at all, as the petitioners in the first place never got an opportunity to meet the purported reason that one of the structures for which compensation was disbursed to the petitioners was actually not affected by the acquisition or the right of way. Therefore, the impugned notice dated 22nd February, 2024, is found to be unsustainable.

11. As regards communication dated 22nd February, 2024 issued by the Respondent No.2, directing the respondent banks to freeze the bank accounts of the petitioners, we fail to understand as to what was the source of power for the Respondent No.2 to direct such a drastic action in the context of the petitioners. Even if the source of such power is to be traced to the affidavit submitted by the petitioners when the compensation was disbursed, to the effect that they would refund any excess amount disbursed to them, it is found that in the affidavit itself it is stated that if

1 (1978) 1 SCC 405

they fail to refund the amount, it would be recovered as arrears of land revenue under the Maharashtra Land Revenue Code, 1960. Therefore, there is no source of power for the Respondent No.2 in the facts and circumstances of the present case to issue the impugned communication dated 22nd February, 2024, whereby the bank accounts of petitioners were frozen.

12. In view of the above, we find that the writ petition deserves to be allowed. This would certainly not preclude Respondent No.2 to issue a fresh notice to the petitioners, in accordance with law, by following principles of natural justice to seek recovery of alleged excessive payment of compensation made to them.

13. Accordingly, writ petition is allowed in the following terms:

(I) The writ petition is allowed in terms of prayer clauses (a) and (b). Consequently, impugned notice dated 22nd February, 2024 issued by the Respondent No.2 is quashed and set aside. Equally, the communication dated 22nd February, 2024, issued by the Respondent No.2 for freezing the bank accounts of the petitioners is also quashed and set aside.

(II) The Respondent No.2 would be at liberty to issue a fresh notice to the petitioners to claim refund of alleged excess amount of compensation disbursed to them. Such a notice shall state the grounds on which the recovery is contemplated and copy of the report of the Public Works

Department stating that the earlier valuation was found to be erroneous as also any other material relied upon, shall be furnished to the petitioners along with the fresh notice.

(III) Respondent No.2 grant shall grant reasonable time to the petitioners to respond to such a fresh notice.

(IV) In the event the Respondent No.2 comes to a conclusion after considering the response of the petitioners, that any amount is recoverable from them and issues an order in that context, such an order shall be kept in abeyance for a period of four weeks from the date of service of the order on the petitioners.

(SHREERAM V. SHIRSAT, J.) **(MANISH PITALE, J.)**

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