

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

WRIT PETITION NO.3147 of 2015

1. Kusumbai w/o. Poshetti Kandewad,
Age: 70 years, Occu.: Agri.,
R/o. Karkheli, Tal: Dharmabad,
Dist. Nanded.
2. Shri. Vijay s/o. Poshetti Kandewad,
Age: 38 years, Occ: Service,
R/o. Karkheli, Tal: Dharmabad,
Dist. Nanded.

...PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Irrigation Development Department,
Mantralaya, Mumbai.
2. The District Collector,
Nanded, Dist.: Nanded.
3. The Deputy Collector Land Acquisition,
Nanded, Dist. Nanded.
4. The Executive Engineer,
Upper Pen Ganga Project Division No.8,
Nanded, Tal & Dist. Nanded.

...RESPONDENTS

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Mr. Anand V. Indrale Patil, Advocate for the Petitioners;
Mr. D.R. Kale, AGP for Respondent Nos. 1 to 3.

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**CORAM: R.M.BORDE
AND
P.R.BORA, JJ.**

DATED : 19TH OCTOBER, 2015.

ORAL JUDGMENT
(Per: R.M.Borde,J)

1. Heard.

2. Rule. Rule made returnable forthwith. With the consent of the parties, petition is taken up for final disposal at admission stage.

In view of the order passed by us on 22nd July, 2015 in Writ Petition No.3146/2015, the instant petition also deserves to be disposed of.

3. The petitioners are praying for quashment of the Award passed by respondent No.3 on 5.3.2014 determining the amount of compensation in accordance with provisions of the Land Acquisition Act, 1894.

4 It cannot be controverted that the provisions of the Right to fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 are enforced since 1.1.2014. The impugned Award is declared after enforcement of the Act of 2013. In view of provisions of section 24(1)(a) of the Act of 2013, where no Award under section 11 of the said Land Acquisition Act has been made, then, all provisions of the Act relating to the determination of compensation shall apply. In the instant matter, award has been declared after enforcement of the Act of 2013 and until the date of such enforcement, award was not passed under the Act of 1894. As such, provisions of section 24(1)(a) of the Act of 2013 are attracted. Necessary consequence is that the award impugned in the petition shall have to be declared as illegal and is accordingly

quashed. Respondent No.3 – Deputy Collector, Land Acquisition, Nanded is directed to take up the proceedings in respect of land acquisition and declare the award on determination of compensation in accordance with the provisions of new enactment i.e. Act of 2013. Proceedings in respect of acquisition until the stage of determination of compensation are perfectly in order, however, by virtue of provisions of section 24(1)(a) of the Act of 2013, only determination of amount of compensation shall be in accordance with the Act of 2013. Respondent No.3 shall in observance of the procedure, determine the amount of compensation in accordance with the Act of 2013 and declare the award as expeditiously as possible, preferably within a period of six months from today.

Rule made absolute accordingly. In the facts and circumstances of the case, there shall be no order as to costs.

5. Pending Civil Application, if any, does not survive and stands disposed of.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

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