

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 6822 OF 2015

- 01 Bharat S/o Badhu Patil
Age 67 years, Occ. Agril,
- 02 Surendra S/o Gokul Patil
Age 42 years, Occ. Agril,
- 03 Narpal S/o Sudam Patil
Age 36 years, Occ. Agril
- 04 Ramansing S/o Shankarsing Patil
Age 52 years, Occ. Agril
- 05 Dhanjay S/o Ramansing Patil
Age 23 years, Occ. Agril
- 06 Sanjay s/o Kashinath Koli
Age 37 years, Occ. Agril.
- 07 Bhagwan S/o Eka Koli
Age 55 years, Occ. Agril.
- 08 Ravindra S/o Rajaram Dhangar
Age 50 years, Occ. Agril,
- 09 Sanjiv S/o Rajaram Dhangar
Age 52 years, Occ. Agril
- 10 Chandradip S/o Suratsing Patil
Age 58 years, Occ. Agril
- 11 Shardabai W/o Chandradip Patil
Age 52 years, Occ. Household
- 12 Pramilabai W/o Premsing Patil
Age 58 years, Occ. Household
- 13 Nandlal s/o Ukhardu Patil
Age 49 years, Occ. Agril

- 14 Pundlik S/o Udesing Patil
Age 54 years, Occ. Agril
- 15 Vidyabai W/o Pundlik Patil
Age 48 years, Occ. Agril
- 16 Kalusing S/o Udesing Patil
Age 57 years, Occ. Agril
- 17 Bharat S/o Zagdu Patil
Age 52 years, Occ. Agril
- 18 Pravin S/o Pralhad Koli
Age 40 years, Occ. Agril
- 19 Pradhan S/o Sakharam Koli
Age 60 years, Occ. Agril
- 20 Dhanraj S/o Bhagwan Koli
Age 28 years, Occ. Agril
- 21 Rukhmabai w/o Barku Dhangar
Age 68 years, Occ. Agril
- 22 Vijaysing S/o Kisansing Patil
Age 56 years, occ. Agril
- 23 Ranjnabai w/o Vijaysing Patil
Age 50 years, Occ. Agril
- 24 Subhash S/o Ukhardu Patil
Age 53 years, Occ. Agril
- 25 Lilabai W/o Nago Bhoi
Age 45 years, Occ. Agril
- 26 Vittal S./o Magan Koli
Age 50 years, Occ. Agril
- 27 Bhatubai w/o Nadusing Girase
Age 42 years, Occ. Agril
- 28 Prakash S/o Bhagwan Sonar
Age 57 years, Occ. Agril

29 Manisha w/o Kalusing Patil
Age 30 years, Occ. Agril

30 Dattary S/o Magan Koli
Age 65 years, Occ. Agril

31 Ravindra S/o Jgnnath Patil
Age 50 years, Occ. Agril

32 Ranvir S/o Vilaychand Patil
Age 55 years, Occ. Service

All r/o Virwade, Tq. Chopda
Dist. Jalgaon.

Petitioners

Versus

01 The State of Maharashtra
through The Secretary Revenue and Forest
Department, Mantralaya,
Mumbai 32.

02 Collector of Jalgaon

03 Sub. Divisional Officer @
Special Land Acquisition Officer,
Amalner dist. Jalgaon.

04 Special Land Acquisition Officer No. 2.
Upper Tapi Project (Hatnur) Jalgaon.

05 The Executive Engineer,
Medium Project,
Division Jalgaon.

Respondents

Mr. P.B. Patil, advocate for the petitioners.
Mrs. A.V. Gondhalekar, A.G.P. for Respondents.

WITH
WRIT PETITION NO. 8494 OF 2015

- 01 Prakash Udesing Patil
Age Major, Occ. Agril
- 02 Bhagwan Soma Bhil
Age Major, Occ. Agril
- 03 Nandkishor Namdeo Dhangar
Age Major, Occ. Agril
- 04 Pandharinath Harchand Koli
Age Major, Occ. Agril
- 05 Mangal Harchand Koli
Age Major, Occ. Agril
- 06 Radhesham Gandas Barela
Age Major, Occ. Agril
- 07 Sitaram Gandas Barela
Age Major, Occ. Agril
- 08 Bharat Mansing Patil
Age Major, Occ. Agril
- 09 Tulshiram Mansing Patil
Age Major, Occ. Agril
- 10 Krushnasing Mansing Patil
Age Major, Occ. Agril
- 11 Rajkorbai Jagdish Patil
Age Major, Occ. Agril
- 12 Kiran Sanjay Kakhare
Age Major, Occ. Agril
- 13 Deoram Suraj Koli
Age Major, Occ. Agril
- 14 Santosh Joharmal Dhangar
Age Major, Occ. Agril
- 15 Kavita Gajendrasing Patil
Age Major, Occ. Agril

- 16 Shantaram Devkinandan Koli
Age Major, Occ. Agril
- 17 Gopal Durgadas Patil
Age Major, Occ. Agril
- 18 Himanshu Sangramsing Sisodia
Age Major, Occ. Agril
- 19 Nirmalabai Chandrasing Patil
Age Major, Occ. Agril
- 20 Bhimabai Bhojesing Patil
Age Major, Occ. Agril
- 21 Arun vitthal Dhangar
Age Major, Occ. Agril
- 22 Suresh Gulab Dhangar
Age Major, Occ. Agril
- 23 Bhartibai Sanjay Patil
Age Major, Occ. Agril
- 24 Sahebrao Daulat Patil
Age Major, Occ. Agril
- 25 Avinash Bhagwan Dhangar
Age Major, Occ. Agril
- 26 Kiran Suresh Thakur
Age Major, Occ. Agril
- 27 Shivaji Soma Dhangar
Age Major, Occ. Agril

All R/o Virwade, Tq. Chopda,
Dist. Jalgaon.

Petitioners

Versus

- 1 The State of Maharashtra
Through its Principal Secretary,

Revenue and Forest Department,
Mantralaya, Mumbai.

2 The District Collector,
Jalgaon, Dist. Jalgaon.

3 The Sub Divisional Officer and
Special Land Acquisition Officer,
Amalner, Tq. Amalner,
Dist. Jalgaon.

Respondents

Mr. V.B. Patil, advocate for the petitioners.
Mrs. A.V. Gondhalekar, A.G.P. for respondents.

CORAM : R.M.BORDE &

P.R.BORA, JJ.

DATE : 29th September, 2015

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

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 Petitioners are objecting to the determination of compensation by the Sub Divisional Officer while declaring award on 31.03.2015 in respect of acquired property belonging to the petitioners.

3 Agricultural lands belonging to the petitioners have been acquired for public project i.e. right bank canal of Gul Medium Project. A preliminary notification in respect of acquisition of the properties came to be issued under Section 4 of the Land Acquisition Act, 1894 on 29.03.2012. The Land Acquisition Officer, after completion of procedure prescribed under Land Acquisition Act, declared the award on 31.03.2015

determining amount of compensation in accordance with provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4 Petitioners contend that though award is declared under the new enactment, determination of compensation by the Sub Divisional Officer is not in accordance with Section 26 of the said Act. Section 26 of the said Act and more particularly sub-section (2) thereof prescribes that the market value calculated as per sub-section (1) shall be multiplied by a factor to be specified in the first schedule. The first schedule of the Act of 2013 prescribes the factor ranging between “1.00” to “2.00” based upon distance of the project from urban area, as may be notified by the appropriate Government in the case of acquisition of properties falling within rural area.

5 It is not in dispute that the acquired properties are situate in rural area. The Special Land Acquisition Officer, while determining amount of compensation, has applied “1.10” as the relevant factor in consonance with Section 26 of the Act of 2013. Petitioners point out that there was a challenge raised to the prescription of factor “1.10” so far as acquisition of properties situate in rural area is concerned, in Writ Petition No.4274 of 2014. The aforesaid writ petition came to be allowed and notification directing fixation of factor “1.10”, so far as it relates to rural area, came to be quashed and set aside and this Court directed the State to prescribe relevant factor in accordance with the provisions of Act of 2013 by issuing separate notification in that regard. It has been pointed out that the State Government has issued notification on

26.05.2015 whereunder relevant factor has been prescribed at “2.00” in respect of acquisition of properties falling within rural area. Petitioners, thus, contend that the Sub Divisional Officer ought to have applied factor “2.00” while determining amount of compensation under the award declared on 31.03.2015.

6 It does appear that the Sub Divisional Officer has committed an error apparent on the face of record in prescribing “1.10” as the factor for determining amount of compensation of the properties situate in rural area and acquired for public purposes. It was not open for the Sub Divisional Officer to apply factor “1.10” prescribed under the notification which has been quashed by this Court while dealing with Writ Petition No.4274 of 2014 by an order dated 09.03.2015.

7 In this view of the matter, necessary consequence is that Respondent Sub Divisional Officer needs to be directed to redetermine amount of compensation payable to the petitioners and all other claimants covered by the said award by applying “2.00” (two) as the factor prescribed under the notification issued by the State Government on 26.05.2015 and it is accordingly directed. The exercise of redetermination of amount of compensation by making application of factor “2.00” (two) prescribed under the notification dated 26.5.2015 shall be completed as expeditiously as possible, preferably within four months from today. On redetermination of amount of compensation by applying factor “2.00” (two) in respect of the claimants covered under the award, amount shall be disbursed within a period of four months from the date of redetermination of

amount of compensation under the orders passed by this Court in the instant petitions.

8 Learned Additional Government Pleader points out that the claimants have been paid compensation in accordance with determination made by the Sub Divisional Officer by applying factor “1.10” prescribed under earlier notification. The additional amount, to which petitioners/claimants would be entitled, shall be paid to them in accordance with the directions as above.

9 Rule is accordingly made absolute. There shall be no order as to costs.

P.R.BORA
JUDGE

adb/wp682215

R.M.BORDE
JUDGE