

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.8494 OF 2014

- 1 Uttam s/o Bhujanga Pawar,
age: major, Occ: Agril.,;
- 2 Sahebrao s/o Waman Dinde,
age: major, Occ: Agril.,;
- 3 Janabai w/o Namdeo Kakde,
age: major, Occ: Agril.,;
- 4 Sojabai w/o Tatyrao Tambe,
age: major, Occ: Agril.,;
- 5 Shripat s/o Shamrao Pawar,
age: major, Occ: Agril.,;

All above R/o Pardari,
Tq. & District Aurangabad.

Petitioners

Versus

- 1 The State of Maharashtra,
through the Chief Secretary,
Irrigation Department,
Mantralaya, Mumbai-32.
- 2 The Divisional Commissioner
(Land Acquisition), Aurangabad
Division, Aurangabad.
- 3 The Collector, Aurangabad,
District Aurangabad.
- 4 The Special Land Acquisition
Officer, J.P.1, through the
Sub Divisional Officer, Aurangabad.
- 5 The Executive Engineer,
Minor Irrigation, Division No.1,
Aurangabad, Dist. Aurangabad.

Respondents

Mr.Nanabhau R. Thorat, advocate for petitioners
Mr.G.R.Ingole, A.G.P. for Respondents No.1 to 4.
Mr.S.G.Bhalerao, advocate for Respondent No.5.

CORAM : R.M.BORDE &

P.R.BORA, JJ.

DATE : 09th January, 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 The land belonging to petitioners has been acquired for public purposes and after observing the procedure prescribed under Land Acquisition Act, award came to be passed on 17.05.2003 determining amount of compensation at the rate of Rs.462/- per are.

3 Petitioners contend that an agriculturist, whose land has been acquired under the same notification, challenged the award passed by the Land Acquisition Officer, by presenting Land Acquisition Reference No.72 of 2004, which was referred to the Court of Civil Judge, Senior Division, Aurangabad, for disposal. The matter was placed before the *Lok Adalat* on 05.07.2009 and compromise has been arrived at between the parties determining amount of compensation @ Rs.950/- per are.

4 Petitioners, on the basis of award passed by the Civil Court, pursuant to the agreement arrived at before the *Lok Adalat*, tendered an application under Section 28A of the Land Acquisition

Act for redetermination of amount of compensation receivable by them. The application has not yet been decided by the Special Land Acquisition Officer presumably because the concerned authority holds an opinion that application seeking redetermination of compensation under Section 28A of the Land Acquisition Act is not maintainable in the matters wherein decision, relied upon by the claimant/applicant is pursuant to an agreement arrived at before the *Lok Adalat*. The opinion of the respondent-authorities, if any, is erroneous for the reason that learned Single Judge of this Court, while disposing of Writ Petition No.974 of 2001, on 28th June, 2001, has ruled that application under Section 28A of the Land Acquisition Act is maintainable on the strength of award passed by the Civil Court based upon an agreement arrived at before the *Lok Adalat*. The Division Bench of this Court has also upheld the view expressed by the Single Judge while dealing with Writ Petition No.5794 of 2014, decided on 4th August, 2014.

5 In this view of the matter, instant petition deserves to be allowed and same is accordingly allowed. Respondents No.3 and 4 are directed to take decision on the application tendered by petitioners under Section 28A of the Land Acquisition Act, on its own merits, as expeditiously as possible, preferably within a period of six months from today. The application tendered by petitioners under Section 28A of the Land Acquisition Act shall not be rejected on the ground that the application is tendered on the basis of an award passed by the Civil Court relying upon an agreement arrived at before *Lok Adalat*. On determination of amount of compensation, if any, Respondent No.5 – acquiring body shall

make payment thereof to the petitioners, as expeditiously as possible, preferably within a period of eight weeks from such determination.

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

P.R.BORA
JUDGE

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R.M.BORDE
JUDGE