

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8872 OF 2015

Shri. Kundlik Dagadu Vazarkar

(Since deceased through his legal heirs)

Shri. Bajirao Kundlik Vazarkar and others

.. Petitioners

Versus

The Sub Divisional Officer, Maval,

Sub Division, Maval and others

.. Respondents

Mr. S. D. Thokade, for the Petitioners.

CORAM : R.M. SAVANT, J.

DATE : 07th SEPTEMBER, 2015

PC.

1. The order dated 22.04.2015 passed by the District Judge-15, Pune rejecting the application under Section 9, Order 7 Rule 10 and Section 26 of the Maharashtra Civil Courts Act, 1869 is taken exception to by way of the above Petition. The said application was filed in the Reference proceedings which are numbered as 327 of 2001 which Reference proceedings have arisen on account of the dispute between the land holders in respect of the compensation. The Trial Court has rejected the said application on the ground that in the Reference proceedings the legality and validity of the Award cannot be gone into as the Reference Court is only concerned with the apportionment under Section 30 of the

Land Acquisition Act or the enhancement of the compensation sought under Section 18 of the said Act. The Reference Court has also rejected the application that in view of the dispute between co-sharers that the matter is referred to the Reference Court and therefore the ground that specific amount has not been awarded the Special Land Acquisition Officer cannot be accepted. The objection namely that since the Award amount is more than one crore, the Court in question does not have jurisdiction to try and entertain the said objection has also been rejected as the jurisdiction is conferred under the Land Acquisition. The last objection is raised as regards jurisdiction on the ground that in view of the repealed of the Land Acquisition Act the said Court does not have the jurisdiction has also been rejected. The request of the Petitioner to refer the matter once again to the Respondent No.6 i.e. the Special Land Acquisition Officer for determination has also been rejected. In the instant case, an Award seems to have been passed on 30.11.2000 which is annexed as 'Exh-F' to the Writ Paper book and in which Award the amount of compensation mentioned is Rs.1,53,12,000/-. However, after deductions the amount of compensation comes to Rs.1,41,04,545/-. Out of the said amount it seems that an amount of Rs.51,04,000/- was paid to Shri. Omkar Vazarkar and it is on account of the dispute that has arisen on account of the said payment that the reference was made for apportionment under Section 30 of the Land

Acquisition Act. It seems that after the reference was made a Writ Petition came to be filed by the Petitioners in this Court being Writ Petition No.4924 of 2012. In the said Writ Petition a grievance was made as regards the said Award which was passed. A Division Bench of this Court issued a direction to the Respondents to verify whether the lands of the Petitioners have been acquired and whether the compensation thereof has not been either determined or paid to the Petitioner. It is required to be noted that the said Petition was filed during the pendency of the Reference proceedings under Section 30 of the Land Acquisition Act.

2 . It is the submission of the Learned Counsel for the Petitioners that the directions as contained in the order dated 07.08.2012 of the Division Bench has not been complied with by the Special Land Acquisition Officer. If that be so, it is open for the Petitioners to take appropriate steps in that regard. However, the order passed by the Trial Court rejecting the Application Exh.121 filed by the Petitioners having regard to the reasons for the rejection cannot be faulted with. No case for interference in the Writ Jurisdiction of this Court is therefore made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]

“Certified to be true and correct copy of the original signed order.”