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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6919 OF 2012

Yashwant Kisan Gaikwad & Ors. ...Petitioners
vs.
Deputy Collector @ Land Acquisition
Officer No.13, Pune & Ors. ...Respondents

Mr.Dilip Bodake for the Petitioners
Mr.V.S.Gokhale, AGP for the respondent Nos.1 and 2
Mr.Madan Singh Khati for respondent Nos.3 to 19.

CORAM : A.S.OKA, &
 G.S.PATEL, JJ.
DATE : NOVEMBER 24, 2015

P.C.:

1 Notice for final disposal has been already issued. We have heard the learned counsel for the petitioner, the learned AGP for respondent Nos.1 and 2 and the learned counsel for the respondent Nos.3 to 19.

2 The land subject matter of this petition under Article 226 of the Constitution of India was acquired under the Maharashtra Industrial Development Act,1961 (for short 'the said Act').

3 An application was made by the petitioners to the Land Acquisition Officer for making a reference to the Court for deciding the dispute as regards the apportionment of the compensation.

4 Our attention is invited to the communication dated 11th August 2011 issued by the Deputy Collector, (Land Acquisition) No.13, Pune to the petitioners and the respondent Nos.3 to 19 informing that a decision has been taken to make a reference under section 35 of the said Act to the Court. This statement is reiterated in the communication dated 20th August 2011.

5 The challenge in this writ petition under Article 226 of the Constitution of India is to the order dated 10th June 2011 passed by the Deputy Collector (Land Acquisition) No.13, Pune. There is also a prayer for issuing a writ of mandamus directing that a reference under section 35 of the said Act be made. The learned counsel for the respondent Nos.3 to 9 has no objection if the reference is made accordingly under section 35 of the said Act.

6 As far as the challenge to the order dated 10th June 2011 is concerned, we must note here that the compensation determined in accordance with section 33 has not been paid to any party. Now that a decision has been taken to make a reference under section 35 of the said Act, the amount of compensation can be disbursed only after the reference is decided. Hence, it is not necessary to decide the issue of legality and validity of the order dated 10th June 2011.

7 Hence, we dispose of the writ petition by

passing the following order:

- (I) If a reference under section 35 of the Maharashtra Industrial Development Act, 1961 is not already made till today, we direct the Deputy Collector (Land Acquisition) No.13, Pune to make a reference to the Court in accordance with section 35 of the said Act within a period of six weeks from today;
- (II) The compensation amount as determined in accordance with section 33 of the said Act shall be deposited by the Deputy Collector (Land Acquisition) No.13 in the Court to which the reference will be made if the same is not yet deposited;
- (III) Needless to state that the Reference Court shall invest the said amount in a fixed deposit with any nationalised bank till the disposal of the reference;
- (IV) We make it clear that no adjudication has been made on the entitlement of the parties to receive compensation and all questions on merits are kept open to be decided by the Reference Court;
- (V) Rule is made partly absolute on above terms;
- (VI) The Advocate for the petitioner shall produce an authenticated copy of this order in the office of the Deputy Collector, (Land Acquisition) No.13, Pune who shall act upon the same.

(G.S.PATEL, J.)

(A.S.OKA, J.)