

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

WRIT PETITION NO. 2471 OF 2014

Shri, Hrichandra Dagdu Pavse & Ors. ..Petitioners

V/s.

The Special Land Acquisition Officer & Ors. ..Respondents

Mr. Pramod Narayan Joshi a/w Mr. Nikhil Pujari for the
petitioner.

Mr. V.S. Gokhale, AGP for respondent nos. 1,3 & 4.

**CORAM : ABHAY S. OKA &
C.V. BHADANG, J.J.**

DATE : 22ND APRIL, 2015

ORAL JUDGMENT (PER A.S. OKA, J)

1. Heard learned counsel appearing for the petitioners
and the learned AGP for the respondents.

2. On the earlier occasion the parties were put to
notice that the petition will be disposed of finally at the stage of
admission. Rule. The respondents waive service.

3. On the application made by the petitioners under
Sub Section (1) of Section 28-A of the Land Acquisition Act,
1894 (for short "The said Act"), an Award was made under
Sub-Section (2) of Section 28-A of the said Act by the 1st
respondent by which re-determination of the market value was
made by the 1st respondent on the basis of the judgment and

award in Land Acquisition Reference No. 571/1995. Under the said award made under Sub-Section (2) of Section 28A, apart from re-determining the market value, statutory benefits under sub-section (2) of section 23 and sub-section 1A of the section 23 of the said Act were granted. On the market value and the aforesaid statutory benefits, interest at the rate of 9% and 15 % respectively was granted by the 1st respondent.

4. By the order impugned, the 1st respondent has purported modify the aforesaid Award made under sub-section (2) of section 28-A of the said Act . By the impugned order, he directed that the interest at the rate of 9% and 15% respectively will be payable only on the market value and not on the components of solatium and interest.

5. The submission of the learned counsel appearing for the petitioners is that the impugned order is without jurisdiction. The submission is that at highest, the Award could have been modified only in exercise of the powers under section 13A of the said Act, provided there were clerical and/or arithmetical mistakes in the Award. He pointed out the findings recorded in the impugned order. The learned AGP supported the impugned order and submitted that no interference is called for in the impugned order.

6. We have considered the submissions. The sub-section (1) of Section 13-A reads thus:

“(1) The Collector may, at any time but not later than six months from the date of the award, or where he has been required under section 18 to make a reference to the Court, before the making of such reference, by order, correct any clerical or arithmetical mistake in the award or errors arising therein either on his own motion or on the application of any person interested or a local authority:

Provided that no correction which is likely to affect prejudicially any person shall be made unless such person has been given a reasonable opportunity of making a representation in the matter.”

The scope of powers sub-section (1) of section 13-A is restricted. In exercise of the said power, only clerical and arithmetical mistakes in the award can be corrected. In the present case, by the impugned order, the 1st respondent has purported to record a finding that the petitioners are entitled to interest at the rate of 9% and 15% only on the market value and not on the other components forming part of the compensation.

Therefore, the impugned order dated 17th July 2007 could not have been passed in exercise of power under section 13-A of the said Act. Existence of no other statutory power is pleaded by the respondents.

7. The Apex Court has repeatedly held that the said

Act is a complete Code in itself. Under the said Act, apart from section 13-A, there is no power vested in the 1st respondent to modify an Award made by him.

8. Therefore, the impugned order is illegal and will have to be set aside. Accordingly we pass following order.

: ORDER :

- (i) The impugned order dated 17th July 2007 is quashed and set aside;
- (ii) Rule is accordingly made absolute.

[C.V. BHADANG, J.]

[ABHAY S. OKA, J.]