

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4225 OF 2016

1. Kerabai Laxman Herke
Age 45 years, Occu: Agri.
 2. Laxman Potanna Herke,
Age 50 years, Occu: Agri.
 3. Ishwardas Narsingdas Koyalkar,
Age 72 years, Occu: Agri.
 4. Aminoddin Jalsaab
Age 50 years, Occu: Agri.
 5. Piraji Satwa
Age 30 years, Occu: Agri.
 6. Kerba Gangadhar Sontakke,
Age 40 years, Occu: Agri.
- ... Petitioners**

All R/o Vilalge Mauje Karkheli,
Taluka Dharmabad, Dist. Nanded

VERSUS

1. The State of Maharashtra
Through its Secretary,
Irrigation Development
Department, Mantralaya,
Mumbai 400 032
2. The District Collector,
Collector Office, Nanded.
3. The Deputy Collector (Land
Acquisition), Nanded.
4. The Tahsildar, Tahsil Office,
Dharmabad, Dist. Nanded
5. The Executive Engineer, ... Respondents.
Upper Penganga Project Division

No.6, Nanded,
Tq. & Dist. Nanded.

WITH
WRIT PETITION NO. 4226 OF 2016

1. Sayed Bashir Ali Sayed Ali
Age 45 years, Occu: Agri.
2. Syed Amir Ali Jalal Ali
Age 35 years, Occu: Agri.
3. Sayed Anis Ali Jalal,
Age 26 years, Occu: Agri.
4. Sayed Gaus Ali Jalal Ali
Age 40 years, Occu: Agri.
5. Sayed Liyakat Ali Kasim Ali, **... Petitioners**
Age 45 years, Occu: Agri.

All R/o Vilalge Mauje Karkheli,
Taluka Dharmabad, Dist. Nanded

VERSUS

1. The State of Maharashtra
Through its Secretary,
Irrigation Development
Department, Mantralaya,
Mumbai 400 032
2. The District Collector,
Collector Office, Nanded.
3. The Deputy Collector (Land
Acquisition), Nanded.
4. The Tahsildar, Tahsil Office,
Dharmabad, Dist. Nanded
5. The Executive Engineer, **... Respondents.**
Upper Penganga Project Division
No.6, Nanded,
Tq. & Dist. Nanded.

Mr. Ravindra B. Narwade Patil, Advocate for the
petitioners
Mr. P. S. Patil, AGP for the Respondents-State.
Mr. Ruturaj Patil, Advocate for Respondent No.5

**CORAM : R. M. BORDE &
K. L. WADANE, JJ.**

DATE : 4th August, 2016

JUDGMENT:

1. Heard the learned counsel for the parties.
2. Rule. Rule made returnable forthwith and the petition is taken up for final disposal by the consent of learned counsel for the respective parties.
3. The petitioners are objecting to the awards declared by respondent No.3-Deputy Collector (Land Acquisition), Nanded on 05.03.2014 and 01.02.2014 respectively. The petitioners contend that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has been in force since 01.04.2014, however, in the instant matter, the Deputy Collector (Land Acquisition) has declared the Awards in accordance with the old Act of 1894. It is obligatory on the part of the Deputy Collector (Land Acquisition) to declare the award in observance of the Act, 2013.
4. Section 24(1) (a) of the Act, 2013 provides that

notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, (a) where no award under section 11 of the Land Acquisition Act, has been made, then, all provisions of this Act relating to the determination of compensation shall apply. In the instant matter, from the date of enforcement of the new Act i.e. Act, 2013, the awards under the Land Acquisition Act, 1894 were not declared. As such, it was obligatory on the part of the respondents to determine the amount of compensation in accordance with Act of 2013. Both the petitioners are therefore allowed.

5. The Awards declared by the Deputy Collector (Land Acquisition), Nanded to the extent of determination of amount of compensation is quashed and set aside. The concerned respondent is directed to determine the amount of compensation payable to the petitioners in accordance with the Act of 2013. Necessary steps shall be taken and the award determining the amount of compensation shall be declared in accordance with the Act of 2013 as expeditiously as possible, preferably within a period of six months from today.

6. On determination of the amount of compensation, Land Acquisition Authority/Deputy collector (Land Acquisition) shall make payment of the amount of compensation within a period of four months from the date of such determination.

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

8. It is informed that possession of the land under acquisition has not yet been taken. In such circumstance, it would be open for the acquiring body to take decision in the matter as to whether to proceed with the acquisition or not.

(K. L. WADANE, J.)

(R. M. BORDE, J.)

JPC