

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD  
WRIT PETITION NO. 11628 OF 2015

VIKRAM TRIMBAK HANGE AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. R.N. Dhorde, Senior Counsel h/f. Mr. S.V.  
Hange and P.S.,. Dighe for Petitioner 1  
AGP for Respondents: Mr. B.V. Virdhe.  
Advocate for Respondent No.4 : Mr. S.S. Dande.

**CORAM : S.V. GANGAPURWALA  
& K.K. SONAWANE, JJ.  
DATE :12TH JULY , 2016.**

**PER COURT:**

1] Mr. Dhorde, learned Senior Counsel for the petitioner submit that the un-dated award passed by respondent No.3 SLAO, acquiring 10R land from land Gat No. 222/11 at Kumbhephal owned by the present petitioners for construction of 15 meter wide road is patently illegal and against the provisions of the Maharashtra Industrial development Corporations Act. Learned Senior Counsel further submits that the award proceeds on the ground that the petitioners have consented for the amount of compensation as dealt with in the said award, however, the petitioners at no point of time had ever given their consent nor any negotiations have taken place with the present petitioners. The petitioners do not agree with the quantum of compensation awarded under the said award. Petitioners are still in possession of the said 10R writ land. Learned Senior Counsel further submits that even otherwise, the said award has lapsed in view of the provisions of section 24 of the The Right to Fair Compensation and

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Learned Senior Counsel submits that respondents are required to initiate and complete the acquisition proceedings as laid down under Section 33(3) of the MIDC Act, 1961 for determining compensation of the 10R land in accordance with the provisions of the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

2] Mr. Dande, learned counsel for the respondent No.4 could not deny that the petitioners' consent nowhere appears in the record and also that procedure under Section 33(3) of the MIDC Act, 1961 has not been adhered to. Learned counsel submits that the MIDC is ready to negotiate with the petitioners for payment of compensation. Possession of the writ land is handed over to the MIDC.

3] Learned AGP submits that the award has been passed in accordance with the provisions of law.

4] We have considered the submissions canvassed by the learned counsel for respective parties. On perusing the award, it is manifest that the award is passed, as if the petitioners have consented for the quantum of compensation. However, as per the record, it is abundantly clear that the petitioners nowhere have given their consent for the quantum of compensation as determined by the respondents. They have not put their signatures at any of the documents in that regard. In view of that, the respondents did not have any authority or jurisdiction to invoke the provisions applicable for passing the consent award. The respondents were

duty bound to abide by the provisions of Sub-section (3) of Section 33 of the MIDC Act, 1961. The said procedure has not been adhered to. The said award as such, to the extent of the petitioners, cannot be said to be legal and valid.

5] Mr. Dhorde, on instructions, submits that the petitioners are not ready to negotiate with the respondent MIDC. In view of that, it would be futile to explore the possibility of settling the dispute by passing an award by negotiations. In the light of that, we pass the following order :-

[a] The impugned award would not be binding upon the petitioners in respect of the writ land;

[b] The respondents shall, by adhering to the provisions of the MIDC Act, 1961, determine the compensation of the writ land of the petitioners, afresh as per the provisions of the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as made applicable vide notification dated 27<sup>th</sup> August, 2014.

[c] In case, the MIDC wants to delete the land from acquisition, the MIDC may take steps in that regard.

[d] The same shall be done expeditiously and preferably within a period of six months from the date of this order.

[e] It is made clear that we have not given any indication with regard to the quantum of compensation.

**[K.K. SONAWANE]**  
JUDGE

**[S.V. GANGAPURWALA]**  
JUDGE.

grt/-