

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.523 OF 2016

Mohd. Hussain Mohd. Hajisaab
@ Ahmed Husain Hajisab,
Age-80 years, Occu:Agri.,
R/o-Karkheli, Tq-Dharmabad,
Dist-Nanded.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Irrigation Development Department,
Mantralaya, Mumbai,
- 2) The District Collector,
Nanded, Dist-Nanded,
- 3) The Deputy Collector Land Acquisition,
Nanded, Dist-Nanded,
- 4) The Executive Engineer,
Minor Irrigation Project Division No.1,
Nanded, Tq. & Dist-Nanded.

...RESPONDENTS

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Mr.A.V. Indrale Patil Advocate for Petitioners.
Mr.P.S. Patil, A.G.P. for Respondent Nos.
Nos. 1 to 3.
Respondent No.4 served.

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**CORAM: R.M. BORDE AND
A.I.S. CHEEMA, JJ.**

DATE : 18TH FEBRUARY, 2016

ORAL JUDGMENT [PER R.M. BORDE, J.] :

1. Heard. Rule. Rule made returnable forthwith. With the consent of learned counsel for the parties, the Petition is taken up for final disposal at admissions stage.

2. The Petitioner is praying for issuance of directions in respect of quashment of the Award passed on 1st February, 2014 contending that the same is not passed in consonance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013). According to the Petitioner, the determination of amount of compensation under the Award dt. 1st February, 2014 is in accordance with the old

Enactment i.e. the Land Acquisition Act, 1894. The new Act i.e. Act of 2013 is made operational since 1st January 2014 and it was necessary for the Land Acquisition Officer to determine the compensation in accordance with the Act of 2013.

3. It cannot be controverted that the provisions of the Right to fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 are enforced since 1st January, 2014. The impugned Award is declared after enforcement of the Act of 2013. In view of provisions of Section 24(1)(a) of the Act of 2013, where no Award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of the Act relating to the determination of compensation shall apply. In the instant matter, Award has been declared after enforcement of the Act of 2013 and until the date of such enforcement, Award was not passed under the Act of 1894. As such, provisions of Section

24(1)(a) of the Act of 2013 are attracted. Necessary consequence is that the Award impugned in the petition shall have to be declared as illegal.

4. The impugned Award passed by the Land Acquisition Officer is quashed and set aside. So far as the determination of amount of compensation, the Respondents shall re-determine the amount in accordance with the provisions of Act of 2013, as expeditiously as possible, preferably within the period of FOUR MONTHS from today and shall make payment of the amount so determined, within the period of FOUR WEEKS from the date of such determination.

5. The amount already paid, if any, to the Petitioner as per the computation made in accordance with the Award passed under the old Enactment i.e. Act of 1894, shall be considered while making payment of the amount determined

under the Act of 2013 under the directions issued
by this Court in the instant Petition.

6. Rule is accordingly made absolute in
above terms. There shall be no order as to costs.

[A.I.S. CHEEMA, J.]

asb/FEB16

[R.M. BORDE, J.]