

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.6216 OF 2015.

Sau.Mandakani Bhaskarrao Jeevankar ..vs.. The State of Mah. & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr.N.B.Bargat, Advocate for the petitioner.
Mrs.Bharti Dangre, Govt.Pleader for resp.1 to 4.
Mr.S.C.Jagtap, Advocate for respondent no.5.

**CORAM : B.P.DHARMADHIKARI AND
P.N.DESHMUKH, JJ.**

DATED : MARCH 29, 2016.

Grievance in relation to appointing of a competent authority is not pressed as direction to that effect is already issued in Writ Petition No.2285 of 2015.

Shri Bargat submits that against the awards dated 1st of July, 2015 petitioner has got remedy of filing an application under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and that application has been accordingly preferred vide Annexure 22 with Writ Petition, on 20th of August, 2015. After that reference application, the impugned communication dated 21st of September, 2015 has been issued pointing out that petitioner has to approach Civil Court under Section 18 of the Land Acquisition Act, 1894. He submits that as award is after 31st of December, 2013 and compensation also has been calculated under new Act i.e. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the impugned direction is unsustainable. He also invites attention to communication dated

12-01-2016/22-02-2016 filed with rejoinder to urge that the communication is erroneous as petitioner has never filed any reference application under Section 18 of the Land Acquisition Act, 1894.

Learned Government Pleader as also Advocate Jagtap are opposing the petition. Learned Government Pleader points out that though the award is dated 1st of July, 2015, it is delivered under proceedings which were going on as per Land Acquisition Act, 1894 and therefore saved by virtue of Section 24 of the Act of 2013. In terms of the provisions of Section 24 of the Act of 2013, norms prescribed in new Act for determining the amount of compensation have been applied.

According to learned Government Pleader and Advocate Jagtap, petitioner therefore has to file reference under Section 18 of the Land Acquisition Act only. They submit that the petitioner had filed such application under Section 18 of the L.A. Act on 7th of August, 2015 but did not pay court fee and therefore communication dated 12-01-2016/22-02-2016 came to be served upon the petitioner.

After hearing learned counsel, we find that the award dated 1st of July, 2015 placed along with Writ Petition as Annexure 13, Annexure 14 and Annexure 15 specifically stipulates that it is under Section 11 of the Land Acquisition Act, 1894. The petitioner along with rejoinder has produced a communication dated 12-01-2016/22-02-2016 which asked him to supply necessary court fee on his application dated 7th of August, 2015. Petitioner has not pointed out that this order is passed on some other application which cannot be treated as an application under Section 18 of the

Land Acquisition Act.

The facts show that the petitioner has moved reference under Section 64 of the Act of 2013 vide Annexure 22 on 28th of August, 2015. The impugned communication refers to it and points out that in terms of legal provisions though award has been made under Section 18 of the L.A.Act, the compensation has been determined under the provisions of the Act of 2013.

In this situation, as there is no challenge to award pronounced on 1st of July, 2015 before this Court and petitioner has not demonstrated that the communication dated 12-01-2016/22-02-2016 is on some other application which cannot be viewed as an application under Section 18 of the L.A.Act, 1894, no cognizance of grievance as made can be taken under this jurisdiction.

However, considering the fact that three pieces of lands of petitioner are acquired and she is seeking enhancement, we grant petitioner liberty to take appropriate steps in the matter in accordance with law.

Keeping all rival contentions open, with this liberty we dispose of the petition. No costs.

JUDGE

JUDGE

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