

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8939 OF 2016

1. Nisar Sajan Patel,
Age 56 years, Occu. Labour,
2. Rafique Sajan Patel,
Age 54 years, Occu. Nil.

Both R/o. At Post: Rajuri,
Tq. Rahuri, District Ahmednagar.

...PETITIONERS

VERSUS

1. State of Maharashtra
Through its Secretary for Rural Development
and Water Conservation Department,
Mantralaya, Mumbai.
2. District Revenue Collector, Ahmednagar
Collector Office, Ahmednagar.
3. Special Land Acquisition Officer, Ahmednagar,
Collector Office, Ahmednagar.
4. Ahmednagar Zilla Parishad, Ahmednagar
Through its Chief Executive Officer.

...RESPONDENTS

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Mr.P.V.Barde, Advocate for the petitioners.
Mrs.A.V.Gondhalekar, AGP for respondent State.
Smt. Manjushri Shendage-Narwade, Advocate for R/4.

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CORAM : R. M. BORDE & P.R. BORA, JJ.

Dated: March 16, 2017

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ORAL JUDGMENT: (*Per R.M.Borde, J.*)

1. The agricultural property belonging to the petitioners, admeasuring 2 Hectares, 60 Are, and 51 Are Potkharab lands, out of Gat No.406 situate at Rajuri, taluka Rahata, district Ahmednagar, has been acquired for construction of a percolation tank.

2. Though the possession of the property has been taken by entering into private negotiations by the respondents in the year 2003, for considerable period, the proceedings for acquisition were not initiated and amount of compensation was also not paid. After lapse of ten years from the date of taking over possession of the property, proceedings in respect of determination of amount of compensation were initiated with issuance of notification under Section 4 of the Land Acquisition Act, 1894, on 13.3.2013.

3. Since the award was not passed, the petitioners approached this Court seeking directions to the respondents to pass an award by paying the amount of compensation or, in the alternative, to return back their lands.

4. An affidavit in reply has been presented on behalf of the State wherein it has been disclosed that final award has already been declared on 18.3.2015. Although the award is stated to have been declared in the year 2015, till this date, the amount of compensation has not been paid to the petitioners. It is well recognized principle that the award of the Land Acquisition Officer under the provisions of the Land Acquisition Act is an offer of the amount of compensation and, the amount arrived at under the award is expected to be tendered to the claimants simultaneously on declaration of the award.

5. In the instant matter, though the award is stated to have been declared in the year 2015, till this date, the amount of compensation has not been offered to the petitioners. The award declared by the Land

Acquisition Officer, as such, cannot be construed to be an award within the meaning of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, 'the Act of 2013'). Apart from this, while determining the amount of compensation, the Deputy Collector, Land Acquisition, has applied multiplier of 1.05. The determination of the amount of compensation by the Land Acquisition Officer is in breach of Section 26 (2) of the Act of 2013. The First Schedule of the Act of 2013 stipulates that a multiplier of 2 shall be applicable in respect of the acquisition of the land situate in rural area.

6. So far as the acquired land belonging to the petitioners is concerned, admittedly, it forms part of the rural area. The Deputy Collector (Land Acquisition), was expected to apply multiplier of 2 while determining the amount of compensation payable to the petitioners, however, the concerned official has committed an error in law in applying 1.05 as the multiplier while determining the amount of compensation. The amount of compensation arrived at under the award, therefore, needs

to be re-determined, and shall have to be paid to the claimants. Though it is not necessary to disturb award declared on 18.03.2015, while maintaining the rest of the contents, we direct the Deputy Collector (Land Acquisition) to re-determine the amount of compensation payable to the petitioners, and all other claimants covered by the said award, by application of multiplier of 2, as provided under Schedule I, declared under notification dated 26.05.2015. The amount shall be re-determined as expeditiously as possible preferably within a period of six weeks from today and on re-determination of the amount of compensation, the amount so determined shall be paid to the claimants within a period of three months from the date of such determination.

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

(P.R. BORA)
JUDGE

(R. M. BORDE)
JUDGE

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