

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

WRIT PETITION NO. 11338 OF 2016

**KASHID NARAYANRAO AATMARAM AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners : Shri V.D.Sapkal h/f Shri Sayyed Tauseef Yaseen.  
AGP for Respondents/ State : Shri D.R.Kale.  
Advocate for Respondent 2 : Shri M.N.Navandar.

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**CORAM: S.C. DHARMADHIKARI  
AND  
MANGESH S. PATIL, JJ.**

**DATE :- 14<sup>th</sup> June, 2017**

PC.:

1 By this petition under Article 226 of the Constitution of India,  
the Petitioners seek the following reliefs:-

"C) *By issuing a writ of mandamus or any other writ or order or direction in the like nature the acquisition proceedings initiated for the purpose of constructing railway route through Ahmednagar-Beed-Parli to the extent of S.No.172, 173, 174, 175 and 176 at village Pimpargavhan, Tq. and Dist.Beed be quashed and set aside.*

*By issuing a writ of mandamus or any other writ or order or direction in the like nature the Award dt.13.11.2011 passed out of acquisition proceedings initiated for the purpose of constructing railway route through Ahmednagar-Beed-Parli to the extent of S.No.172, 173, 174, 175 and 176 at village Pimpargavhan, Tq. and Dist.Beed be quashed and set aside.*

D) *By issuing a writ of mandamus or any other writ or*

*order or direction in the like nature declare that the above mentioned acquisition proceedings have lapsed in view of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013."*

2           At the outset, Shri V.D.Sapkal, learned Advocate, on instructions makes a statement that bearing in mind the peculiar facts and circumstances it will not be possible for the Petitioners to obtain the declaration in terms of prayer clause (D) reproduced above. The Petitioners would confine their request to the extent that the relief in terms of the proviso to sub-section (2) 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"), be granted.

3           Shri Sapkal has relied upon the averments in the Writ Petition and annexures thereto and particularly the order of the Deputy Collector, Land Acquisition, Jayakwadi Project, Beed. It is stated by Shri Sapkal that in this order it has not been disputed that measurements were carried out on 16.03.2005. Despite the measurements carried out, since the name of the applicant was not found in the records, the compensation was not paid to him. There is an award which has been made. In that award, the Sub Divisional Officer, Beed has referred to the lands in Survey No.172 admeasuring 0.62 R, Survey No.172 admeasuring 0.18 R, Survey No.174 admeasuring 0.42 R and Survey No.175 admeasuring 2 H and 24 R. Thus,

the total area of 3 H and 46 R has been acquired. It has been acquired for the purpose of laying a railway line. The project is of the Railways. Since on account of technical difficulties, separate measurements could not be carried out, that is why out of the acquired lands and particularly the lands admeasuring 0.62 R from Survey No.172 and 2 H and 24 R from Survey No.175 are concerned, the persons interested could not be paid compensation. It is in these circumstances that Shri Sapkal would submit that clause (a) of Section 24(1) or clause (b) thereof of the Act of 2013 can be invoked. At least clause (b) can be invoked. The bar or overriding provisions contained in sub-section (4) of Section 24 would not apply because five years have not lapsed from the making of the award. It is only because the railway line is passing through these lands, but the compensation has not been granted that the proviso would come into play. Hence, the compensation will now have to be determined in terms of the Act of 2013 and paid accordingly. It is that surviving claim which is pressed by Shri Sapkal and relying upon the judgment of the Division Bench of this Court in the case of Dilip Narayan Chaudhari vs. State of Maharashtra in Writ Petition Nos.2390/2015 and 610/2014 decided on 21.09.2015 (reported in 2016 (3) All MR 890) and the Full Bench judgment of this Court reported in 2017 (1) Mh.L.J. 487 (Dayaram Bhondu Koche vs. State of Maharashtra).

4           As far as the Respondents are concerned, they would submit that there is no substance in the contentions of the Petitioners. Once the report/ order of the Deputy Collector refers to undisputed facts including payment of compensation, then, merely because on invocation and applicability of the Division Bench judgment of this Court in Dilip Chaudhari's case (supra), a legal opinion and guidance is sought by the Deputy Collector does not mean that the claim is open. The claim is already disposed of and hence, in writ jurisdiction this Court should not grant any additional or substantive reliefs.

5           With the assistance of the learned Advocates appearing for both sides, we have perused the petition and all annexures thereto including the order of the Deputy Collector.

6           It is undisputed that Respondent No.1 is the State and through the Department of Revenue. Respondent No.3 is the Collector, Beed. Respondent No.2/ Central Railways, Ahmednagar have requested the Government to set the law in motion and that is how this Special Land Acquisition Officer / Respondent No.4 Deputy Collector stepped in. The Petitioners claim to be legal owners and purchasers of lands bearing Survey Nos.172 to 175 and 176 of village Pimpargavhan, Taluka and District Beed. After setting out details of their holdings, they have stated that the notification under Section 4 of the erstwhile Land Acquisition Act, 1894 was published in the official gazette on 18.12.2008, so also,

published in two local newspapers. The final award was made on 13.11.2011 in respect of the land admeasuring 3 H and 46 R out of Survey Nos.172 to 175. Public purpose is of construction of new railway route, namely, Ahmednagar-Beed-Parli. From the record which is also referred to in the orders of Respondent No.4 the measurements and complete could not be carried out. Then, there were certain objections raised. That is how the Petitioners came to know that the final award is of the above date and referable to the declaration under Section 6(1) and published in the official gazette on 21.11.2009 and two local newspapers, but disbursement and payment of compensation was not done. The Petitioners have, in paragraph 8 of the petition, stated thus:-

"8. *As per the award statement, out of Survey No.172, 173, 174, 175 the compensation award of 3 Hectare 46 Are land was made out of which the compensation from S.No.173 of land admeasuring 0.18 Are and S.No.174 of land admeasuring 0.42 Are was paid. As far as majority of compensation amount out of the said award in respect of majority of land holdings has not been deposited in the account of the beneficiaries till today nor is the name of majority of beneficiaries specifically mentioned in the award. Hereto annexed and marked is the award statement dated 13.11.2011 as Exhibit D.*"

6 A perusal of this averment would indicate that it is based on the award statement. The award statement indicates that the compensation has been paid, but not to all. The compensation has not been deposited in the account of the beneficiaries till date nor are the

names of majority of beneficiaries specifically mentioned in the award. As far as this aspect is concerned, the Petitioners though claimed a larger relief, eventually realizing the legal position emerging from reading of Section 24 of the new Act of 2013, have submitted that the undisputed factual position would denote that the Division Bench judgment of this Court in Dilip Chaudhari's case (supra) will apply with full force.

7           We have perused that part of the order of the Deputy Collector/ Respondent No.4 which would indicate that there were some legal proceedings and initiated by Vishal Jagannath Kshirsagar claiming to be owner of Survey No.175 admeasuring 0.32 R. He was relying upon the revised measurements and corrections pursuant thereto. In his legal proceedings, some directions were issued pursuant to which remaining compensation has been deposited in the District Court on 01.08.2016. However, the request for payment of compensation in terms of the Act of 2013 was rejected.

8           The Petitioners rely upon the Division Bench judgment of this Court and the language of Section 24 of the Act of 2013 to submit that if the compensation has not been paid, then, the Act of 2013 would come into play. However, the Deputy Collector was in doubt as to whether, this judgment would apply and he sought guidance. Yet, he very clearly holds that because there is demand made for payment of compensation in terms of the new Act of 2013, it was not possible to disburse and pay the

remaining amount of Rs.6,06,034/-. That amount is payable in terms of the award of 13.08.2011. Once this admitted position emerges and from the records of Respondent Nos.3 and 4, then, a larger debate, discussion or pronouncement is unnecessary. We have found that the Petitioners' reliance upon the Act of 2013 is well placed. Once the compensation amount was not paid and in terms of the award, but the law intervenes, namely, the Act of 2013, then, its mandate has to be followed. Its mandate must be honoured in the peculiar facts and circumstances of this case as well because there is no dispute that the compensation amount has not been paid. The Petitioners are ready and willing to submit themselves to the proceedings for acquisition of their lands and do not challenge the same as the process of laying down a railway line has been undertaken and the Railways have carried out necessary preliminary works.

9           From the record, it also appears that the project will serve a larger public purpose. It is in public interest. The railway connectivity is the need of the day. Today, it is not possible to cater to the requirement of passengers and travelling public as there is only one railway line which has not connected Ahmednagar to Beed. The railway passengers have to invariably come to Aurangabad by road so as to reach Ahmednagar or Beed.

10           In such circumstances once there is concession from the Petitioners, we do not interfere with the acquisition of their lands. The

acquisition of the same is for public purpose and is, therefore, legal and valid. We uphold the same. However, once the compensation was not disbursed in terms of the award dated 13.11.2011, then, the Act of 2013 shall intervene and now that has to be followed. That will have to be followed because the legal provision has also been interpreted by the Division Bench judgment of this Court. That binds the authorities. That is how they have also proceeded. In these circumstances in order to render complete justice, we direct that the compensation shall now be paid by protecting the entitlement of the Petitioners under the Act of 2013. We direct accordingly.

11 We are informed that there was great demand and throughout made for laying a railway line and establishing railway connectivity between Ahmednagar and Beed. The Railways have admitted that there is need for laying such railway line and it is a paying proportion as well. We see no reason for the Railways to then delay any handing over of the required money/ sums so that Respondent No.4 Deputy Collector/ Special Land Acquisition Officer can abide by the mandate of the Act of 2013. Therefore, we direct Respondent No.4 Collector / Special Land Acquisition Officer to compute the amounts/ differential sums within a period of THREE WEEKS from the date of receipt of the copy of this order and raise a demand on the Railways within a period of TWO WEEKS from the date the computation being available and ready. In terms of this

calculation and computation, the payments for differential sums, if raised, Respondent No.2/ Deputy Chief Engineer (Construction) of Central Railways has to then arrange and make deposits within a period of TWO MONTHS from the date of receipt of the demand from Respondent No.4 Deputy Collector/ Special Land Acquisition Officer. Any default on the part of the Authorities in complying with our directions, shall invite such proceedings as are permissible in law including action in contempt.

12           We have found that from 2008 the project is underway. A period of nine years is long enough for fulfilling the dream of public. Their demand is reasonable. Political and executive bosses cannot continue to ignore these demands and increase the pressure on other means of transport. Today, road transport is risky and costly as well. It is not possible for poor and middle class people to pay for their road travel as private transport buses have necessarily to be boarded for the same. Public transport is neither speedy nor readily available. In such circumstances we have stipulated the above time frame. We hope and trust that this demand of public and based on which the notifications have been issued, would be considered by the authorities exercising their executive powers and they will not delay the arrangement of funds and disbursement and payments thereof.

13           Needless to clarify that in default, not only the above consequences can be visited on the defaulters and defaulting officials, but

they would also have to make further payments in terms of the Act of 2013 by way of interest, etc.. The superiors of such defaulting officials should take note of deliberate inaction and delay and foist the liability on these officials in the event huge interest burden falls on the State and public exchequer.

14           The Writ Petition is disposed of in the above terms.

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**(MANGESH S. PATIL, J.)**

**(S.C. DHARMADHIKARI, J.)**