

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9895 OF 2015

Shri Pratik Balavant Shirke and others. ... Petitioners.
V/s.
The State of Maharashtra and others. ... Respondents.

Prashant Bhavake for the petitioners.

Ms.S.S.Bhende, AGP for the State.

Vijay Patil for respondent No.5.

**CORAM : DR.MANJULA CHELLUR, C.J.
AND G.S.KULKARNI, J.**

DATE : 13th April 2017.

P.C. :

The present petition is filed contending that as on the date of award, so far as lands of the present petitioners are concerned, the multiplier issued by notification on 26th May 2015 was not in existence and, therefore, the determination of compensation by applying the multiplier factor in terms of notifications dated 19th March 2014 and 13th August 2014 is incorrect and, therefore, the award requires to be set aside.

2. According to the petitioners' counsel, the judgment of the High Court of Bombay at Aurangabad Bench dated 9th March 2015 in Writ Petition No.4274/2014 (Panjabrao S/o Ganpatrao Borade v. The State of Maharashtra and others) is applicable to the case of the petitioners since the Division Bench has considered the multiplier factor. On perusal of the said judgment, we note that the challenge in the said petition was to the notifications dated 19th March 2014 and 13th August 2014 with reference to multiplier factor for rural areas and other areas. According to the petitioners, since the land to be acquired in that writ petition was for construction of Water Storage Tank at village Patoda, multiplier- 2 is made applicable and not the multiplier as contemplated in the notifications dated 19th March 2014 and 13th August 2014.

3. In the present case, the contention of the petitioners is that the aforesaid two notifications issued by the Deputy Secretary to the Government of Maharashtra, Revenue and Forest Department were not in existence as on the date of determination of compensation, therefore, the multiplier which has come into existence subsequently after the award being passed would be the correct multiplier applicable to their case. At this stage, we bring to the notice of learned counsel for the petitioners section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("Act of 2013" for short) which is similar to section 18 of the Land Acquisition Act, 1894.

According to us, if there is any grievance with regard to the amount of compensation including quantum of compensation as well other amounts payable in terms of the Act, the same could be referred to the Reference Court by the Collector on application given in writing by the party who is interested in the land either as owner or otherwise.

4. According to us, the judgment dated 9th March 2015 may be of some assistance to the petitioners i.e. only to the extent that the notifications dated 19th March 2014 and 13th August 2014 so far as multiplier factor, were not in existence on the date when the award was passed since the said notifications were already quashed by the aforesaid judgment. However, this judgment cannot be relied upon by the petitioners to contend that whenever there is an issue of multiplier factor even in calculating the compensation amount by applying right or wrong multiplier, there has to be a writ petition invoking Article 226 of the Constitution. According to us, calculation by applying multiplier factor, which was not in existence, is the only challenge that is made in the present petition. In other words, according to the petitioners those multiplier factors were not in existence as on the date of the award and, therefore, the quantum of compensation is wrongly arrived at. Apart from this, the petitioners have also sought ground rent for taking possession of the property way back in 2004 much prior to the date of award.

5. In the above circumstances, we are of the opinion that we need not entertain the present petition since the claim or the grievance of the petitioners is with regard to quantum of compensation arrived at by a multiplier factor which was not in existence. This issue can very well be raised by making application in terms of section 64 of the Act of 2013.

6. We, therefore, permit the petitioners to make an application to the Collector as required under section 64 of the Act of 2013. The said application to be filed within a period of six weeks from today. In the event such application is made by the petitioners, the authority concerned shall not reject the said application on the ground of limitation since the writ petition was pending in this Court.

7. It is needless to mention that if the concerned authority has already undertaken to pay the ground rent, the same be paid in terms of directions of this Court by virtue of interim order.

8. With the aforesaid observations and directions, writ petition is disposed of.

(G.S.KULKARNI, J.)

CHIEF JUSTICE