

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

WRIT PETITION NO.11524 OF 2019

DAGA NAGO RAJPUT GIRASE THROUGH GPA YADAV BAJESING GIRASE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...  
Advocate for the Petitioner : Shri Deshmukh Vaibhav S.  
AGP for Respondents 1 and 2 : Shri S.R.Yadav  
Advocate for Respondents 3 and 4 : Mrs.Chaitali Kutti  
...

**CORAM: RAVINDRA V. GHUGE, J.**

**DATE :- 24<sup>th</sup> September, 2019**

**Per Court:**

1           The petitioner has challenged the order of the Deputy Collector, Land Acquisition, Medium Irrigation Project, Dhule dated 07/12/2015, in this petition filed on 23/01/2018 and circulated for the first time on 21/09/2019.

2           I have considered the submissions of the learned Advocate for the petitioner and the learned AGP on behalf of respondent Nos. 1 and 2.

3           Since Mrs.Kutti, the learned Advocate appears on behalf of respondent Nos. 3 and 4 Acquiring Body, this Court has requested the learned Advocate to assist the Court by causing her appearance. In this backdrop, the submissions of the learned Advocate on behalf of

respondent Nos. 3 and 4 have been considered.

4           It appears that this petitioner approached the Deputy Collector, Land Acquisition by an application dated 30/10/2013 u/s 28-A of the Land Acquisition Act, 1894 seeking enhanced compensation. Instances of adjoining land owners, who are said to be similarly situated and who succeeded in getting enhancement in compensation u/s 18 of the Act, were cited. The Deputy Collector has passed the impugned order concluding that those similarly situated land owners, who have got enhanced compensation, are facing a First Appeal pending before the High Court and hence the application of this petitioner has been temporarily disposed off on the ground that the decision in the First Appeal is awaited.

5           The learned Advocate for the petitioner submits that the Deputy Collector has mentioned a different proceeding pertaining to a land from the Latur District, which is about 300 kms away from the land of the petitioner. He cites the correct First Appeal number as being FA No.83/2014 in the matter of Indrasingh Rajesingh Girase Vs. The Special Land Acquisition Officer, Medium Irrigation Project, Dhule.

6           The learned Advocate for the petitioner relies upon the judgment of the Hon'ble Apex Court in the matter of ***V.Ramakrishna Rao Vs.Singareni Collieries Company Limited and another [(2010) 10 SCC 650]***, in support of his contention that his matter may be listed before the competent authority u/s 28-A and may be considered on its own merits.

The learned AGP submits that this petitioner had not preferred a proceeding u/s 18 of the Land Acquisition Act. Section 28-A permits those land owners to approach for enhancement of compensation. Section 28-A permits those land owners to approach for enhancement of compensation based on a verdict in identically placed land owners' cases u/s 18. In these circumstances, the petitioner can not claim that his case may be separately adjudicated upon u/s 28-A(3). The basis of his claim would be an earlier claim which is decided and if that is a subject matter of the First Appeal, the petitioner will have to await a decision in the First Appeal.

7           In view of the above, this petition is partly allowed. The impugned order dated 07/12/2015 is quashed and set aside. The proceedings pertaining to the application of this petitioner dated 30/10/2013 u/s 28-A with reference to Land Acquisition No.32/2002 shall stand remitted to the Office of respondent No.2. All the parties shall appear before respondent No.2 on 04/11/2019 at 3.00 p.m. Formal notices are not required. Needless to state, respondent No.2 would then keep the proceedings pending, awaiting the decision of this Court in FA No.83/2014.