

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

WRIT PETITION NO. 7634 OF 2016

Dhondiraj Devidas Goswami and Others

..PETITIONERS

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. C.K. Shinde, Advocate for petitioners

Mrs. G.L. Deshpande, A.G.P. for respondent nos. 1, 4 and 5

Mr. Dhananjay Deshpande, Advocate for respondent nos. 2 and 3

....

**CORAM : PRASANNA B. VARALE AND
R.G. AVACHAT, JJ.**

DATED : 22nd JULY, 2019

PER COURT :

Petitioners are before this Court with prayers as follows :-

“B) By issue of writ of mandamus or any other appropriate writ, the respondent No.4 may kindly be directed to pass rehabilitation and resettlement award in accordance with Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and pay the benefits to the petitioners for acquiring their land Survey No.101 admeasuring 60R of Beed Taraf Pimgale, Tq. & Dist. Beed for the purposes of installation of 33/11 KV Sub-station at Barshi Road, Beed by the respondent No.2-company.

C) By issue of writ of mandamus or any other appropriate writ, the respondents may kindly be directed to pay the petitioners,

statutory benefits and interest, payable under the Land Acquisition Act, 1894 so also the rental compensation.”

2. It is submitted in the petition that petitioners are the agriculturists and they own land Survey No. 101 admeasuring 31H 26R situated at village Taraf Pingale, Tq. & Dist. Beed. It is further submitted in the petition that respondents sought to acquire 60R land of petitioners for installation of 33 KV sub-station by private negotiations. Respondent No.3 submitted proposal to the office of Respondent Nos. 4 and 5. It is further submitted that Respondent No.3 obtained possession of the land of petitioners. Reference is made to certain negotiations and the amount agreed by the parties by negotiations. It is the submission of learned Counsel for petitioners that respondents, without there being any adherence to the provisions of the Act of 2013, only obtained the possession of land of petitioners without paying the just and fair compensation to petitioners. As such, petitioners pray for directions to pass award under the new Act of 2013 and pay benefit to petitioners for acquiring their land.

3. The claim of petitioners is vehemently opposed by Mr. Deshpande, learned Counsel for Respondent No.2 – Maharashtra State Electricity Distribution Co. Ltd. (hereinafter referred to as 'Company' for the sake of clarity). He also appears for Respondent No.3. He invited our attention to

the affidavit-in-reply filed on behalf of Respondent No.3 through Shivaji Gangadhar Wadekar, Executive Engineer, Civil Division of the Company at Latur, wherein it is submitted that petitioners have not placed true facts before this Court. It is submitted by Mr. Deshpande that only vague representation is made in the petition that there was private negotiations, whereas petitioners were parties to the sale deed. It is also submitted that in the agreement all petitioners agreed to accept the offer of Respondent No.2 – Company and the rate was fixed to the tune of Rs.1,06,607/- per R and total amount was quantified to the tune of Rs.64 Lacs. The copy of sale deed is also placed on record. This document itself is of the year 2013 and petitioners, who were parties to this document, in clear words accepted the offer with an additional statement in the document that petitioners are waiving their rights for other benefits as project affected persons. The document also refers to the amount to be deposited initially against each of petitioner. The document is duly signed by petitioners. It is not in dispute that petitioners themselves filed earlier Writ Petition No. 3685 of 2014 in this Court. Prayers in the said writ petition were as follows :-

“C) The respondent No. 2 to 4 may kindly be directed to act as per resolution dated 11.02.2013 and the benefit of 30% and 12% on the like amount.

D) The respondent No.2 may kindly be directed to give the benefit to the petitioner of 30% and 12% on the like amount of their Survey No.101, Taraf Ingale, Area 60R., Beed, Dist. Beed.”

This petition was filed in the year 2014 and even at that point of time the sale deed was in existence but petitioner, for the reasons best known to themselves, have not referred to that document either in Writ Petition No. 3685 of 2014 or in the present writ petition. Writ Petition No. 3685 of 2014 was disposed of on 10th April, 2015 by the Division Bench with following order :-

“Matter involves disputed questions of facts. We are not inclined to entertain the petition. In light of that, Mr. Jaybhar, learned counsel submits that, the petitioners would resort to alternate remedy. The petitioner be given liberty to file suit or take up such other proceedings. Writ Petition is disposed of with liberty to the petitioner to take up proceedings as is permissible in law. No costs.”

4. Alongwith present petition, petitioners themselves placed on record minutes of meeting which was scheduled on 01st February, 2013 and the meeting was conducted in the presence of Sub-Divisional Officer, Beed, the Executive Engineer of the Company, Assistant Engineer of the Company and petitioners. In the minutes of meeting again these facts are reiterated that the rate sought for by these petitioners was for the tune of Rs.1,27,00,0000/- for 60R land, whereas the acquiring body was not ready for this offer and offered Rs. 30 lacs per acre. Ultimately the rate was fixed to the tune of Rs.64,00,000/- for area of 60R land. Thus, all these facts clearly show that from the year 2012 to 2014 petitioners participated in each

proceeding including the negotiation meetings and ultimately were party to the sale deed. Petitioners accepted the rates offered by Respondent No.2 – Company.

5. Earlier petition was disposed of with liberty to petitioners to file suit or to take other proceeding. Considering all these facts, we are of the opinion that petitioners may avail other appropriate remedies in the nature of filing suit, but certainly present petition would not be the appropriate remedy for petitioners and by their act of being party to negotiations, the sale deed and order of this Court dated 10th April, 2015, petitioners would suffer the bar of res judicata to this Court to entertain present petition.

6. As such, we are not inclined to entertain this petition and in our opinion this petition is merit-less, thus, deserves to be dismissed and same is accordingly dismissed.

(R.G. AVACHAT, J.)

(PRASANNA B. VARALE, J.)

SSD