

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

WRIT PETITION NO. 5923 OF 2015

Rajaram s/o Dhondiram Havale and others	... Petitioners
Versus	
The State of Maharashtra and others	... Respondents

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Mr. A. B. Kale, Advocate for petitioners.
 Mr. S. G. Sangle, AGP for respondent Nos.1, 2, 7, 8 and 9.
 Mr. B. R. Surwase, Advocate for respondent No.6.

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**CONTEMPT PETITION NO. 180 OF 2015
IN
WRIT PETITION NO. 1932 OF 2014**

Rajaram Dhondiba Havle and others	... Petitioners
Versus	
The State of Maharashtra and others	... Respondents

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Mr. A. B. Kale, Advocate for petitioners.
 Mr. S. G. Sangle, AGP for the State.
 Mr. B. R. Surwase, Advocate for respondent No.6.

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WRIT PETITION NO. 10326 OF 2016

Ashok Anantrao Havale and others	... Petitioners
Versus	
The State of Maharashtra and others	... Respondents

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Mr. A. B. Kale, Advocate for petitioners.
 Ms. P. V. Diggikar, AGP for the State.

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**CORAM : PRASANNA B. VARALE &
AVINASH G. GHAROTE, JJ.**

DATED : 25th SEPTEMBER, 2019

PER COURT :-

1. Mr. Kale, learned counsel appearing for the petitioners at length.
2. After arguing some time, Mr. Kale, learned counsel submits that the petitioners be permitted to avail remedy of filing Reference under Section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. (for short 'the Act of 2013'). He, then, submits that though, in the present petition, the petitioners have raised a grievance belatedly, as the initial award came to be passed on 30.12.2013, way back the lands of the petitioners were acquired for the purpose of construction of storage tank. It is submitted by Mr. Kale that the Land Acquisition Officer, subsequently, modified the award and the subsequent award being passed on 06.05.2015. The award dated 06.05.2015 is the subject matter of the present petition.
3. It was the initial submission of learned counsel for petitioners that the award earlier passed in the year 2013 provided an adequate compensation to the petitioners, but the subsequent award dated 06.05.2015 passed consequent to setting aside the earlier award by this High Court instead of providing an adequate compensation to

the petitioners reduced the amount of compensation and this act of the Land Acquisition Officer was prejudicial to the interests of all these petitioners and was a result of malice on his part.

4. On perusal of the record, we find that there is a long drawn process of litigation. Initially, petitions were filed on a grievance that though the award is passed in the year 2013, the amount of compensation is not paid to the petitioners. The orders were passed by this Court, directing the authorities to take appropriate steps to give effect to the award. Then, in one round of litigation, the petitioners themselves submitted an undertaking to this Court that they would hand over the possession of the land within a stipulated period and the date of handing over the possession as undertaken by the petitioners as was 30.11.2014. Before 30.11.2014, it seems that again the petitioners have filed the proceedings. There were certain interim orders and the petitioners in the present petition made a statement that the possession of the land is handed over to the authorities on 29.09.2014. The grievance was also raised in the petition on the approach of the authorities and the submission was that the authorities were carrying a grudge against these land holders as they had initiated proceedings in this Court.

5. After arguing some time and on perusal, of the provisions of law, and being faced by the position that there is an alternate remedy available in law, itself, under Section 64 of the Act of 2013, to seek a rise in compensation, if the party feels aggrieved against the compensation on an opinion that the compensation awarded to the parties is inadequate, which is a complete mechanism provided, so as to process and redress the issue of compensation to the land owners, Mr. Kale, learned counsel for the petitioners, in view of this remedial measure being available to the petitioners, prays for withdrawal of the writ petition No.5923 of 2015, with liberty to avail remedy to go before the reference authority under Section 64 of the Act of 2013. Mr. Kale, then submits that the contentions raised in the petition, may be kept open, except the contentions touching to the aspect of the approach of the authorities being partial. He further submits that, Section 64 of the Act of 2013 provides stipulation of period and the apprehension of the petitioners is that on technical ground, the reference authority may not entertain the reference. He also submits that the delay which would now occur in approaching the reference authority, is only due to unintentional and *bona fide* reason that the petitioners have filed the petition in this Court and interim order passed by this Court. Thus, it is the submission of

Mr. Kale, that, while considering the reference, the authority may not take a hyper technical approach on account of the delay. Mr. Kale, learned counsel is justified in making this submission.

6. Considering all these aspects, we are of the opinion that the petitioners can be permitted to withdraw the writ petition No.5923 of 2015 with liberty to the petitioners to avail an alternate remedy, by filing reference under Section 64 of the Act of 2013.

7. Thus, writ petition No.5923 of 2015 is allowed to be withdrawn and disposed of as such, with liberty as prayed for.

8. We, moreover, make it clear that the reference authority shall consider the period consumed in the present proceeding, as well the interim order passed by this Court, while entertaining any application filing the reference and will decide the reference on its own merits, as expeditiously as possible and not later than 12 weeks from the date of filing of the reference before the authority.

9. Needless to state that the petitioners to extend all assistance to the authority in disposal of the reference within the stipulated period, as directed by this Court.

10. Thus, the Contempt Petition No. 180 of 2015 filed for non compliance of an interim order passed by this Court does not survive and loses its efficacy and the same is disposed of.

11. Similarly, Writ Petition No. 10326 of 2016 is also disposed of in view of the order passed by this Court in the present writ petition.

[AVINASH G. GHAROTE, J.] [PRASANNA B. VARALE, J.]

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