

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9030 OF 2018

PRABHAKAR RAGHUNATH KAKDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners :
Mr. D. A. Bide h/f. Mr. Sonawane C. K.
AGP for Respondents No. 1 to 4 :
Mrs. P. V. Diggikar
Respondents No. 5 and 6 - served

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CORAM: S. V. GANGAPURWALA &
A. M. DHAVALÉ, JJ.

DATE: 20th FEBRUARY, 2019

PER COURT :

1. The petitioners assailed the Award under Section 28-A of the Land Acquisition Act, 1894 (*hereinafter referred to 'Act-1894'*).

2. The limited grievance of the petitioners is that the Special Land Acquisition Officer (*hereinafter referred to 'SLAO'*) while deciding the application under Section 28-A of the Act-1894 relied on the Award passed by the reference Court under Section 18 of the Act-1894. The Award passed

by the reference Court was subject matter of challenge in the First Appeal before this Court bearing First Appeal No. 502 of 2013, and the amount has been determined in the *Lok-Adalat* at Rs.1100/- per Are. The same is not considered. It is submitted that the copy of the order passed before the *Lok Adalat* in First Appeal No. 502 of 2013 was also before the SLAO while deciding the application under Section 28-A of the Act-1894.

3. From the settlement before the *Lok Adalat* in First Appeal No. 502 of 2013 it is not clear what was the nature of the land whether Jirayat or Bagayat. The same will have to be considered by the SLAO while deciding the application under Section 28-A of the Act-1894. When the application under Section 28-A of the Act-1894 was pending and the order passed before the *Lok Adalat* in First Appeal No. 502 of 2013 was produced before it, the authority ought to have considered the order passed before the *Lok Adalat* in First Appeal No. 502 of 2013 and the applicability of it to the

case of the petitioners. The same does not seem to have been considered.

4. In the light of above, the impugned order is quashed and set aside. The parties are relegated before the SLAO for deciding the application under Section 28-A afresh. The parties shall appear before the SLAO on 12.03.2019. The SLAO shall consider the order passed in *Lok Adalat* in First Appeal No. 502 of 2013 and as to whether the land of the petitioners is similarly situated as the land in First Appeal No. 502 of 2013 and shall decide the same in accordance with law and after hearing all parties concerned, expeditiously and preferably within a period of six (06) months from the date of appearance.

5. Writ Petition disposed of accordingly.
No costs.

[A. M. DHAVAL, J.] [S. V. GANGAPURWALA, J.]

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