

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7415 OF 2016

Sitabai Sopan More and ors.

...Petitioner.

Vs.

The District Collector, Solapur and ors.

...Respondents.

Mr. T.D.Deshmukh for the Petitioner.

Mr.P.P.More, AGP. for the State.

CORAM : R.M.BORDE & V.L. ACHLIYA, JJ.

DATE : 11th January, 2019

PC :

1. Heard. Rule.

Rule returnable forthwith by consent of the parties.

2. This petition is taken up for final hearing at the admission stage.

3. It is the contention of the petitioners that they are the owners of the land situated at Village Karmala, Taluka Karmala, District Solapur bearing Gat No. 221 admeasuring 1- Hector and 9 Are out of the land described above, and said land has been taken in possession for public purpose

i.e. for the purpose of Karmala Ring Road. It is informed that Section 4 Notification under the Land Acquisition Act 1894 has been issued on 2.1.1997 which was followed by Declaration under Section 6 of the Act on 25.1.1998. According to the petitioner the possession of the subject land has been taken over on 27.1.1999 and the petitioners have been paid advance amount of compensation to the extent of 80% as determined at the relevant time. It is further contended that no award has yet been passed and the balance amount of compensation also has not been paid. The petitioners are relying on the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 and contend that since no award has been declared the respondents are required to be directed to declare award and pay amount of compensation to the petitioners in accordance with provisions of Act of 2013. Sub Section 1(a) of Section 24 of the Act of 2013 provides that Notwithstanding anything contained in sub-section (1), in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said section 11 has been made, then, all the provisions of the Act relating to determination of compensation shall apply. In the instant matter, since the award has not been declared though

proceedings were initiated under the old Act, the respondents shall have to declare the award and determine amount of compensation by applying the provisions of the Act, 2013. The petitioners have also invited our attention to the clarification issued by the Department of Land Resource Ministry of Rural Department on 26.10.2015. The query raised by the State of Maharashtra is as regards the calculation of market value under Section 24(1)(a) whether reference date should be 01.01.2014. As the section reads that, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where no award under the Land Acquisition Act has been made, then, all provisions of this Act (i.e. Act of 2013) relating to the determination of compensation shall apply. It is further recorded that, under Section 26, reference date is date of preliminary notification, Section 24 is a special case of application of the Act retrospectively, and a later date of determination of market value is suggested which is 01.01.2014 with a view to ensure that the land owners/farmers/affected families get enhanced compensation under the provisions of the Act of 2013.

4. The State of Maharashtra has also referring to the clarification has issued necessary instructions under Circular issued on 27.6.2018 which is also in conformity with the circular issued by the Central Government.

5. Considering all these aspects, we direct the respondents to complete the land acquisition proceedings in relation to the land acquired, belonging to the petitioners and pass award determining the amount of compensation in accordance with the Act of 2013, taking into consideration the reference for determination of amount of compensation as 1.1.2014, as expeditiously as possible preferably within a period of one year from today. The compensation amount shall be paid to the petitioners/claimants expeditiously by adjusting the amount of 80% which has already been disbursed in the year 1999.

6. Rule is made absolute to the extent as noted above.

7. There shall be no order as to costs.

(V.L. ACHLIYA, J.)

(R.M. BORDE, J.)