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

WRIT PETITION NO.6889 OF 2015

Sachin Omprakash Bajaj,
Age : 36 YEARS, Occu. Agriculturist,
R/o Zenda Chowk,
Majalgaon, Tq. Majalgaon, Dist. Beed ..PETITIONER

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Industries and Labour Department,
Mantralaya, Mumbai-32
2. Sub-Divisional Officer and
Land Acquisition Officer,
Ambajogai, Dist. Beed
3. Maharashtra Industrial Development
Corporation, Aurangabad
Through its Divisional Officer
4. Sub-Divisional Officer,
Majalgaon ..RESPONDENTS

Mr A.P. Bhandari, Advocate for petitioner;
Mr S.R. Yawalkar, A.G.P. for respondent nos.1, 2 & 4;
Mr S.S. Deve, Advocate for respondent no.3

**CORAM : RAVINDRA V. GHUGE
AND
S. G. MEHARE, JJ.**

DATE : 24th August, 2021

ORAL JUDGMENT (Per Ravindra V. Ghuge, J.)

1. Leave to add Sub-Divisional Officer, Majalgaon as respondent no.4.
Addition be carried out forthwith. Issue notice to respondent no.4. The
learned A.G.P. waives service and causes an appearance on behalf of
said respondent.

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2. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

3. By this petition, the petitioner has putforth prayer clauses (B), (D) and (E) as under:-

“(B) By appropriate writ, order or direction, order dated 29.12.2012 passed by respondent no.2 in File no.2010/LNQ/MIDC/CR/WS7540 under section 33 (2) and 36 (1) (Exhibit E) be quashed and set aside to the extent of land bearing Survey no.53, to the extent of 53 R situated at village Dhangarwadi, Tq. Majalgaon, Dist. Beed

(D) By appropriate writ, order or direction, the respondent authorities be directed to initiate the proceedings for acquisition of land, in accordance with provisions of section 33 (3) and 33 (4) of the MID Act, 1961 and pass appropriate award by following due process of law.

OR IN THE ALTERNATIVE

(E) By appropriate writ, order or direction, the respondents be directed to delete the land of the petitioner from notified MIDC area, Dhangarwadi, Tal. Majalgaon, Dist. Beed.”

(There is no prayer clause (C))

4. We have considered the extensive submissions of the learned Advocate for the petitioner, the learned A.G.P. on behalf of respondent nos.1, 2 and 4 and the learned Advocate on behalf of respondent no.3. It

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has been brought to our notice that in practically identical set of facts, this Court has delivered a judgment on 24th December, 2017 in **Writ Petition No.285 of 2012 filed by Shri Vitthaldas Tribhuvandas Bagadia and anr. vs. State of Maharashtra & ors.**

5. The sequence of events in relation to the land at issue are as under:-

- a) In July, 2010, the petitioner purchased the said land from the original owner.
- b) On 4th November, 2010, the notification under Section 32 (1) of the Maharashtra Industrial Development Act, 1961 (for short "MID Act") was published.
- c) By virtue of Section 32 (4), the land is deemed to be vested in the Government free from all encumbrances from the date of the publication of the notice under Section 32 (1)
- d) In December, 2010, the petitioner moved an application for seeking the NA 44 order which was granted.
- e) On 29th December, 2012, the award was delivered by respondent no.2 and compensation amount was deposited in the Treasury.

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- f) The respondent authorities are unable to locate any agreement signed with the petitioner with regard to quantification of the compensation amount.
- g) The contention of the petitioner is that the land could not have been taken over by the authorities in the absence of an agreement.
- h) A notice under Section 32 (5) of the MID Act, dated 29th December, 2012 was served upon the petitioner calling upon him to formally hand over the possession of the land within 30 days from the date of the notice and collect his compensation.
- i) The petitioner concedes that the notice under Section 32 (5) was received by the petitioner, but amount was not accepted by the petitioner since it was his contention that the land is declared NA 44 and hence, the compensation amount should have been higher.

6. In the backdrop of the factual matrix as recorded above, Shri Bhandari, the learned Advocate for the petitioner submits that as the compensation amount was not paid to him and as the award dated 29th December, 2012 was not passed on consent terms, it would not exist in the eyes of law. Hence, the petitioner would be entitled for the benefit of Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

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7. We are afraid that the said argument of the petitioner cannot be accepted for two reasons. Firstly, that this Court has already ruled in the judgment delivered in Vitthaldas Bagadia (supra) that the acquisition proceedings culminating into the award are upheld and, therefore, there could be no interference in the said award. Secondly, the contention of the petitioner that he would be entitled to derive the benefits flowing under Section 24 (2) of the 2013 Act, is also unsustainable in view of the judgment delivered by the Honourable Apex Court in the matter of **Indore Development Authority vs. Manoharlal & ors., (2020) 8 SCC 129.**

8. In view of the above and since this Court has delivered an extensive judgment on 20th December, 2017 in almost identical set of facts in Vitthaldas Bagadia (supra), we do not wish to enlarge the size of this judgment by reproducing the said judgment hereunder. Suffice it to say that this petition can be partly allowed in the light of the directions set out in Vitthaldas Bagadia (supra) under paragraph 87 of the said judgment.

9. In view of the above, we conclude that this petition need not be entertained to the extent of the validity of the acquisition proceedings initiated by the respondents which have culminated into the award dated 29th December, 2012. The validity of the acquisition proceedings is, therefore, upheld. However, this petition is partly allowed since we are inclined to direct the State Government to make a reference to the Collector under Section 33 (3) of the MID Act for the purpose of the final determination of the amount of compensation payable to the petitioner

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after granting a reasonable opportunity of hearing to him. Nevertheless, it would be necessary to record while negating the submissions of Shri Bhandari (that the land at issue be treated as being NA 44 for the purposes of computation of compensation), that Section 32 (4) and Section 32 (5) of the MID Act mandate that once the land vests in the State Government pursuant to the publication of the notification under Section 32 (1), the owner of the land is precluded from dealing with the said land in any manner and hence, the land at issue shall be deemed to be an agricultural land.

10. We, therefore, issue the following directions :-

- (i) The validity of the acquisition proceedings culminating into an award dated 29th December, 2021 is upheld.
- (ii) Amount of compensation finally determined by the respondents including the Collector without rendering an opportunity to the petitioners contemplated under Section 33(4) of the Maharashtra Industrial Development Act, 1961 is set aside.
- (iii) The State Government shall refer the case to the Collector for determination of compensation in accordance with Sub-section (3) of Section 33 of the said MID Act, 1961.

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- (iv) The amount deposited by the acquiring body before the Treasury shall be subject to the further orders, as may be passed by the Collector for payment to the petitioners.
- (v) The Collector shall complete the exercise of determination of compensation in accordance with Section 33(5) as expeditiously as possible and preferably within six months from today.
- (vi) It is made clear that this Court has not made any adjudication on the merits of the quantum of compensation.
- (vii) Rule is partly made absolute in the above terms.
- (viii) There shall be no order as to costs.

11. All concerned parties to act on the print out copy of this judgment obtained from the official website of the Bombay High Court.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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