

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 2853 OF 2020

Shantabai Sudam Rathod

vs.

State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S. C. Mehadia, Advocate for petitioner.
Mrs. Ujwala Patil, Advocate for respondent No.3.
Mr. K. L. Dharmadhikari, AGP for respondent Nos.1, 2, 4
and 5.

CORAM : MANISH PITALE J.

DATE : 23/06/2021

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The petitioners are claimants whose lands were acquired by the respondents. They had moved an application under Section 28A of the Land Acquisition Act, 1894, for redetermining of compensation in view of the fact that similarly situated claimants had been granted enhanced compensation by the reference Court in their cases.

3. The grievance of the petitioners is that although the said application filed under Section 28A of the aforesaid Act was decided and certain amount was determined to be payable to them, they were not satisfied with the compensation so re-determined and that they had filed an application under Section 28A(3) of the said Act for referring their matters to the Court and then the proceeding to thereafter take place under Sections 18 to 28 of the Act, as provided under Section 28A(3).

4. The learned counsel for the petitioners has invited attention of this Court to order dated 16/09/2020, passed by the respondent No.4, whereby the said application has been rejected by making cryptic observation, which according to the petitioners is not in consonance with law.

5. At the stage of arguments in the writ petition, the learned counsel for the petitioners, on instructions submitted that prayer clause (i) was not being pressed and the alternative prayer was being pursued by the petitioners before this Court. According to the said prayer, the petitioners seek a direction to the respondent No.1 to make a reference in the case of the petitioners in terms of Section 28A(3) of the Act to the appropriate Court. The

prayer clause (iii) is also pressed into service, which pertains to recalculation of the amount payable to the petitioners as per Award dated 30/06/2020, passed by the respondent No.4 under Section 28A of the said Act.

6. On the other hand, the learned counsel appearing for respondent No.3 i.e. acquiring body, submitted that there was a reason stated in the impugned order dated 16/09/2020, as to why the application for reference made by the petitioners stood rejected.

7. Having heard the learned counsel for the rival parties and upon perusal of the material on record, it appears that the respondent No.4 ought not to have rejected the application for reference submitted by the petitioners, in a cryptic manner by the impugned order.

8. The petitioners deserve an opportunity for adjudication of their claims by the Competent Court, upon reference as contemplated under Section 28A(3) of the said Act.

9. Therefore, the writ petition deserves to be allowed in terms of prayer clauses (ii) and (iii).

10. Accordingly, the Writ Petition is partly allowed.

11. The impugned order dated 16/09/2020, is quashed and set aside and the respondent No.1 is directed to make reference under Section 28A(3) of the said Act, in terms of the prayer made by the petitioners, before the Competent Court i.e. Court of Civil Judge Senior Division, Mangrulpir, within a period of four weeks from today.

12. The respondent No.4 is directed to recalculate the amount payable to the petitioners in terms of Award dated 30/06/2020, passed by the said respondent till the date of payment and to disburse the said amount to the petitioners.

13. The respondent No.4 shall carry out the exercise of recalculating the amount and it shall disburse the same within a period of twelve weeks from today.

14. Writ Petition stands disposed of in above terms.

JUDGE