

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO.181 OF 2016
IN WP/5584/2015

GANGAREDDI VITTHAL KOTOD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicants : Mr. A. V. Patil Indrale
AGP for Respondent Nos.1 to 3: Ms. M. A. Deshpande

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CORAM : C. V. BHADANG AND
SANDIPKUMAR C. MORE, JJ.

DATED : 23 JUNE 2022.

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P. C. :

By this application, the applicants/claimants are seeking review of the order dated 8 December 2015 passed by this Court in Writ Petition No. 5584 of 2015. The said order can be reproduced as under :

"1. The petitioners object to the Award passed by the Land Acquisition Officer, contending that, the same is fraudulently prepared and declared a day earlier of the enforcement of the new Act. It is alleged that, the publication of the award is with an object to deprive the petitioners from securing benefits, arising out of the amended

Land Acquisition Act. It is not a matter of dispute that, the petitioners have received the amount of compensation determined by the Land Acquisition Officer and have also tendered Reference applications, claiming enhancement in the amount of compensation.

- 2. In view of the conduct of the petitioners, the contentions raised at belated stage, after accepting the amount of compensation, does not deserve consideration.*
- 3. The writ petition stands rejected."*

2. We have heard the learned counsel for the parties. Perused record.
3. The learned counsel for the applicants has raised two contentions; first is based on the judgment and order dated 3 December 2015 passed by this Court in a batch of petitions bearing Writ Petition No.8671 of 2015, and others in which on the basis of a statement made on behalf of the State in the affidavit in reply that determination of the amount of compensation will be done afresh in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the amount of compensation shall be calculated accordingly and payment would be

made and this court had disposed of the petitions. It is submitted that the applicants are entitled to a similar relief. Secondly reliance is placed on the affidavit in reply filed on behalf of State. In para no.4, one Mr. Ankush Bhanudas Pinate, Deputy Collector and Land Acquisition Officer has stated that the applicants would be entitled to compensation as per the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

4. The learned AGP has submitted that now the legal position is settled on the interpretation of Section 24 of the new Act and once the award was passed and the compensation was paid, the provisions of the new Act cannot apply.

5. We have considered the circumstances and submissions made. We find that as per the Section 24 of the 2013 Act once the award is passed prior to coming into force of the said Act and even going by the affidavit filed on behalf of the State, 55 out of 56 beneficiaries, were already paid the compensation and further having regard to the fact that applicants have received the compensation under protest and have filed reference under Section 18 of the old Act for enhancement of compensation, we do not find any error apparent on the face of the record in the order

dated 8 December 2015, which is under review. It is necessary to note that the statement made by the Land Acquisition Officer in the affidavit in reply, cannot override the settled legal position as there is no estoppel against law. Secondly, in para 3 of the affidavit, concerned officer has taken a contrary stand claiming that the award passed under the old Act is sustainable in view of the saving provisions contained in Section 24 of the 2013 Act. The judgment and order in Writ Petition No. 8671 of 2015 appears to be based on a concession. In any case, in the absence of any error apparent on the face of the record demonstrated in the order dated 8 December 2015, no case for review is made out. The review application accordingly stands rejected.

SANDIPKUMAR C. MORE, J.

C. V. BHADANG, J.

VS Maind/-