

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

**CIVIL APPLICATION NO.1087 OF 2022  
IN  
FIRST APPEAL NO.572 OF 2021**

Chandrakant Gulab Patil

..Applicant

Vs.

The Executive Engineer,  
Hatnur Prakalpa Vibhag, Chopda,  
Tq. Chopda, Dist. Jalgaon,  
Now office at Lower Tapi Project Division,  
Amalner, Dist. Jalgaon

..Respondents

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Mr.V.B.Patil, Advocate for applicant  
Mr.S.S.Chillarge, Advocate for respondent no.1  
Mr.R.B.Bagul, Advocate for respondent no.2

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**CORAM : R.G. AVACHAT, J.  
RESERVED ON : FEBRUARY 14, 2022  
PRONOUNCED ON : FEBRUARY 22, 2022**

**ORDER :-**

Heard learned counsel for the parties.

2. Present application has been filed for modification of the order dated 04.01.2022 passed in First Appeal No.572 of 2021 and connected matters.

3. On hearing a group of appeals including First Appeal No.572 of 2021, this Court had passed the following order :-

- “(i) All First Appeals are allowed.
- (ii) The awards impugned in these appeals are hereby set aside.
- (iii) The Cross-Objections stand dismissed.
- (iv) The respondents/land owners may urge the Collector within a period of two months from the date of this order, to refer the matter for determination of the authority constituted under Section 51 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, if they so desire.
- (v) The amount deposited by the Requiring Body be returned to it along with interest accrued thereon.”

4. By present application, the applicant (original owner) and the respondent in the appeal, urged this Court to modify clause (iv) of the order reproduced above. In short, the applicant has urged for remitting the reference to the authority constituted under Section 51 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013) for decision thereon.

5. According to learned counsel for the applicant, all the land owners (respondents in the First Appeals) had to pay the requisite court fee of their land reference(s) and Cross-Objection(s) as well. They are poor farmers. They are not in a position to pay

separate court fee now. Although original reference(s) were preferred under Section 18 of the Land Acquisition Act, 1894 ("Act of 1894", for short), in view of the judgment and order passed by this Court in Writ Petition No.2089 of 2014, the amount of compensation came to redetermined in terms of the provisions of the Act of 2013. The reference(s) under Section 18 of the Act of 1894, had already been filed and were referred to the Court of Civil Judge, Senior Division. According to him, if the very reference(s) are remitted to the competent authority under the Act of 2013, both the parties hereto may lead evidence afresh. The challenge is to one and the same, i.e., grant of reasonable compensation on account of acquisition of the agricultural lands for public purpose.

6. Learned counsel for the respondent-acquiring body would, on the other hand, submit that the reference(s) decided by the Reference Court were under Section 18 of Act of 1894. On having preferred such reference(s), no amendment was made therein, challenging re-determination of compensation in terms of the provisions of Act of 2013. The applicant has no other option but to make a fresh reference to the Collector in terms of the order of this Court dated 04.01.2022. According to learned counsel, the

period of limitation for making such reference has already been over long back.

7. The agricultural land(s) of the applicant and others were acquired for public purpose. The proceedings for acquisition of the said lands were initiated under the Act of 1894. Even award(s) came to be passed under Section 11 of the said Act. Having been not satisfied with the amount of compensation offered by the S.L.A.O., the applicant and other land owners preferred land reference(s) under Section 18 of the Act of 1894. The Collector, in turn, referred these reference(s) to the Court for decision thereon. The Reference Court, after having heard the parties thereto, decided the reference(s) on merit, granting enhancement of compensation. While deciding those reference(s), the Reference Court went by the provisions of the Act of 2013. Admittedly, when the land reference(s) were made under Section 18 of the Act of 1894, some of the land owners had filed Writ Petition seeking redetermination of compensation in terms of provisions of the Act of 2013. The said Writ Petition was allowed. The Collector determined the compensation in accordance with the provisions of the Act of 2013. On such determination of compensation, neither the applicant nor

any of the land owners took exception thereto by making any amendment in the Land Acquisition Reference(s) already preferred under Section 18 of Act of 1894. As such, what the Reference Court decided, were the reference(s) preferred under Section 18 of the Act of 1894. It, however, considered the provision of the Act of 2013 and enhanced the compensation. The Reference Court did not have jurisdiction to do so, since under Section 51 of the Act of 2013, an independent authority has been constituted to go into such questions. As such, the applicant and others have no other other option but to make fresh land reference in terms of Section 28 of the Act of 2013.

8. Since the period of limitation for making such reference had been lapsed long before, this Court gave them a period of two months in terms of clause (iv) stated herein above. This Court has gone through the provisions of the Maharashtra Court Fees Act. It has not come across any provision that could help out the applicant herein.

9. In short, the applicant(s) will have no option but to make a fresh reference to the Collector as stated in clause (iv) above. The

time thereof is being extended for a period of two months from the date of this order. The application stands disposed of accordingly.

[R.G. AVACHAT, J.]

KBP