

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

WRIT PETITION NO.2342 OF 2017

SUSHILABAI LAKHANDAS BAIRAGI THROUGH REGISTERED POWER OF
ATTORNEY L.P. BAIRAGI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Ajeet B. Kale
AGP for Respondent/State : Mr. A.S. Shinde
Advocate for Respondent Nos.6 to 12, 14,16,19,20,22 to 26, 28 to 30 :
Mr. Amay Sabnis h/f. Mr. V.D. Gunale
Advocate for Respondent No.4 : Mr. R.A. Tambe

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**CORAM : MANGESH S. PATIL AND
SANDEEP V. MARNE, JJ.**

DATE : 20.09.2022

Final Order :

Heard both the sides.

2. The petitioner claiming to be the rightful owner possessing title to the writ property is aggrieved by rejection of the representation by the respondent Executive Engineer declaring that compensation regarding the acquired lands would be paid only to the persons whose names appear in the revenue record in the ownership column.

3. Learned advocate Mr. Kale vehemently submits that since a legitimate dispute as to the entitlement of the compensation has been raised, it was imperative for the respondent Land Acquisition Officer to take recourse to Section 30 of the Land Acquisition Act, 1894 (herein after the Old Act) or Section 76 of the Right to Fair Compensation and Transparency

in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after the New Act). He would submit that though the earlier petition of the petitioner was dismissed in default, it was pertaining to some other lands under some different acquisition proceeding. The petitioner in his rejoinder has specifically clarified the fact. Whether the petitioners are entitled to claim the compensation is a matter which cannot be determined except by taking recourse to Section 30 or Section 76 of the Old Act or the New Act respectively.

4. Learned advocate Mr. Sabnis for the contesting respondents would submit that without disclosing the fact regarding dismissal of the earlier writ petition wherein some of the parties were same and a similar relief was being claimed, the petitioners have caused this Court to call the money determined as a compensation in this Court and caused it to be held up instead of its disbursement to the owners.

5. Having heard both the sides it transpires that the earlier writ petition though was dismissed in default, the specific averment in the rejoinder regarding the earlier dispute being pertaining to some other lands and in respect of some other acquisition proceeding has not been further controverted by the contesting respondents.

6. It is quite apparent that the petitioners and the contesting respondents have been putting up rival claims to the compensation and the dispute goes to the root of title. Needless to state that neither the respondent Land Acquisition Officer nor even this Court can indulge into

and decide the disputes regarding that. When the legislature in its wisdom has provided Section 30 of the Old Act and Section 76 of the New Act, making it imperative for the Collector to make a reference to the Court/Authority, the propriety demands that the parties are relegated to that course which would enable the rights and claims to be decided finally on their own merits.

7. Consequently, the impugned communication whereby the respondent No.4 have turned down the claim of the petitioners is clearly without jurisdiction. He ought to have taken recourse to the aforementioned provisions instead of deciding the rival claims and entitlement.

8. We allow the writ petition. The impugned communication is quashed and set aside. The amount of compensation which was called for and stands deposited in this Court be deposited along with accrued interest with the Special Land Acquisition Officer who shall thereafter take recourse to the provision of Section 30 of the Old Act or Section 76 of the New Act.

(SANDEEP V. MARNE, J.)

(MANGESH S. PATIL, J.)