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

5 WRIT PETITION NO.2810 OF 2017

REKHA SATYANARAYAN AGRAWAL
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr. D.P. Palodkar, Advocate for petitioner;
Mr. P.K. Lakhotiya, A.G.P. for respondent nos.1 to 5;
Mr. A.S. Deshpande, Advocate for respondent no.6;
Mr. A.G. Talhar, A.S.G.I. for respondent no.8

**CORAM : A.S. GADKARI
AND
S. G. MEHARE, JJ.**

DATE : 24th January, 2022

P.C.

1. Heard learned Counsel for the parties.
2. Record indicates that, the impugned order dated 21.2.2017 was passed subsequent to the order dated 1.3.2016 passed in Writ Petition No.10094 of 2015. The petitioner thereafter filed Civil Application No.1329 of 2017 in the said disposed off writ petition challenging the award dated 21.2.2017. This Court by its order dated 24.2.2017 disposed off the said Application with following directions:-

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"2. Mr. Palodkar, learned counsel for the applicant on instructions seeks leave to withdraw the application with liberty to assail the award passed U/s 11 of the Land Acquisition Act, 1894.

3. The Civil Application is disposed of with liberty as aforesaid.

4. All contentions kept open."

3. It appears from record that, in furtherance of the liberty granted by this Court on 24.2.2017, instead of challenging the said award dated 21.2.2017 as contemplated under Section 64 (1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, "Act of 2013"), the petitioner has preferred present petition impugning the said award dated 21.2.2017.

4. According to us, what was contemplated while granting liberty to the petitioner by order dated 24.2.2017 was that, the petitioner would challenge the award dated 21.2.2017 before appropriate competent authority either under Section 18 of the Land Acquisition Act, 1894 or under Section 64 (1) of Act of 2013. As per the submissions of the learned

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counsel for the petitioner, in view of the various pronouncements of this Court, the provisions of Act of 2013 would apply for getting fair compensation for the land of the petitioner acquired by the concerned authorities and therefore an application under Section 64 (1) of Act of 2013 is maintainable.

5. In view of the above, Mr. Palodkar on instructions seeks leave to withdraw present petition with liberty to file reference under Section 64 (1) of Act of 2013, before the Competent Authority mentioned therein.

Leave and liberty granted.

Petition is disposed off as withdrawn.

6. It is needless to mention that, the petitioner will get benefit as contemplated under Section 14 of the Limitation Act for pursuing incorrect remedy i.e. present petition from 28.2.2017 till today.

(S. G. MEHARE, J.)

(A.S. GADKARI, J.)

amj