

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

WRIT PETITION NO. 8966 OF 2021

**SANTOSH GANGADHAR GANAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Advocate for Petitioners : Mr. R.V. Gore
AGP for Respondent Nos. 1 to 4 : Ms. R.P. Gour
Advocate for Respondent Nos. 4 to 6 : Mr. A.V. Patil (Indrale)
Advocate for Respondent No. 8 : Mr. Y.B. Bokar
h/f. Mr. K.B. Jadhav

**CORAM : C.V. BHADANG &
SANDIPKUMAR C. MORE, JJ.**

DATE : 19 JULY, 2022.

ORDER :-

The grievance of the petitioners is that, though excess land has been acquired and made use of by the respondent authorities from out Gat Nos. 38 and 39 situated at Mouje Fatiyabad, Tq. Gangapur, while constructing the State Highway (Samruddhi Mahamarg), lesser compensation is paid to the petitioners. In particular, according to the petitioners, land admeasuring 1 Hectare 2 Ares is acquired from Gat No. 39, however, compensation has been paid only to the extent of 0.987 Ares. In so far as Gat No.38 is concerned, the entire land has been acquired but compensation is only paid for the area admeasuring 0 Hectare 82 Ares. Quite contrary, in respect of land Gat No.37

belonging to respondent No.8, although only 41 Ares is acquired, compensation is paid for the land to the extent of 1 Hectare 38 Ares. In short, according to the petitioners, while the petitioners have been paid lesser amount of compensation, the respondent No.8 has been paid excess compensation. In that view of the matter, the petitioner is seeking a direction to the respondent No.2 Collector to refer the dispute/representation dated 12.1.2021 to the appropriate authority under Section 51 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. According to learned counsel for the petitioner, such reference is contemplated in view of Section 64 (1) of the said Act.

2. The learned counsel for respondent Nos. 4 to 6 acquiring authority namely, Maharashtra State Road Development Corporation (MSRDC) does not dispute that compensation for lesser portion of the land is paid to the petitioner than the land actually acquired. The learned counsel, however, submitted that the Corporation is in an attempt to recover the excess compensation paid to the respondent No.8.

3. It is further pointed out that the acquisition is governed by the Maharashtra Highways Act, 1955 and not by the 2013 Act. It is further pointed out that there is no provision for re-determination of compensation and/or correction of any clerical or arithmetical errors in the award by the competent authority. The learned counsel

points out that the remedy of the petitioner is to invoke Arbitration, as provided under sub-section 8 of Section 19B of the Act of 1955.

4. The learned counsel for petitioners in all fairness submits that the petitioner shall approach the Divisional Commissioner, who is appointed as Arbitrator to decide the dispute as contemplated under Section 19B(8) of the Act of 1955.

5. We have considered the submissions made. We do not find it necessary or appropriate to go into the question whether any excess amount is paid to the respondent No.8. We find that the issue about the payment of lesser compensation to the petitioners is not at all concerned, with what compensation is paid to the respondent No.8. We find that it is for the petitioners to take recourse to the remedy of Arbitration under sub-section 8 of Section 19B of the Act of 1955.

6. In that view of the matter, the petition is disposed of. It would be open to the petitioner to invoke the arbitration as contemplated under sub-section 8 of Section 19B of the Act of 1955, in accordance with law. If such recourse is taken, the learned Arbitrator shall decide the same as expeditiously as possible and preferably within a period of three months, from the date of receipt thereof.

7. Petition is disposed of in aforesaid terms.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.

grt/-