

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

912 WRIT PETITION NO.11211 OF 2017

Alka w/o Bapurao Chaure,
Age; 52 years, Occ; Agril,
r/o; Barshi Road, Beed.

...PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai-32.
2. The Divisional Commissioner
Aurangabad Division, Aurangabad.
3. The Collector, Beed.
4. The Deputy Collector
(Land Acquisition), Minor Irrigation,
Beed.
5. The Deputy Chief Engineer
(Nirman), Central Railway,
Ahmednagar.

...RESPONDENTS.

...
Advocate for Petitioner : Mr.Shinde Chandrakant K.
AGP for Respondent Nos. 1 to 4-State : Mrs. R.P.Gaur
Advocate for Respondent No. 5 : Mr.Navandar Manish N.
...

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

DATE : 02.08.2022.

ORAL JUDGMENT : (PER- MANGESH S. PATIL, J)

Rule.

2. Rule is made returnable forth with. With the consent of the learned Advocates of the respective parties, heard finally at the stage of admission.

3. The petitioner is aggrieved by the alleged error in assessment of compensation, in respect of her land which is acquired for a Railway line.

4. According to the learned Advocate for the petitioner a bare look at E-Statement would demonstrate that there was arithmetical error, which the Collector, in exercise of powers under Section 33 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (hereinafter referred to as the Act of 2013), could have easily corrected. More so, when on repeated inquiries by her, the Town Planner had even agreed that it was an error, which could have been corrected by resorting to the provisions of law. He submits that the Collector for the reasons best known to him, did not correct it, though the report was submitted by his subordinates. He has refused

to exercise the powers under Section 33 of the Act of 2013, which needs to be corrected by issuing a writ as prayed for.

5. The learned AGP by referring to the communication issued by the Collector to the State Government, in response to the grievance made by the petitioner, as also in the affidavit-in-reply, points out that the correction of the award under Section 33 of the Act of 2013, was sought after lapse of a statutory period of six months and that there was no clerical or arithmetical correction, which could have been made.

6. As can be seen from the order passed by the Collector, in one word 'Amanya' (not approved) he refused to pass order under Section 33 of the Act, 2013, even when his subordinates were pointing out that there was an error which could have been corrected under that Section. Still the Collector has not passed any speaking order, albeit the grounds are now being supplied either in the subsequent communication to the Government or in the affidavit-in-reply. When the judicial power was conferred upon the Collector, it was imperative for him to have passed some speaking order, refuting the reasons pointed out by the subordinate officer supplying any ground to justify the impugned order certainly is an afterthought and illegal exercise of the jurisdiction.

7. Be that as it may, the fact remains that the compensation being claimed by the petitioner is not being awarded to her.

8. This Court while exercising writ jurisdiction cannot be expected to come to an independent conclusion, as if the alleged error was susceptible to correction in exercise of jurisdiction under Section 33 of the Act of 2013. The Collector has taken some decision and has held that he was not inclined to exercise that power.

9. If such is the state of affairs, the petitioner is not remedy less. Unsatisfied with the award of compensation, she has a remedy to take recourse of Section 64 of the Act of 2013, in the form of an application. We, therefore, deem it appropriate to dispose of the Writ Petition, keeping open that remedy to the petitioner.

10. The Writ Petition is disposed of. However, the petitioner would be entitled to take steps under Section 64 of the Act of 2013. The Time spent in prosecuting this petition shall be considered under Section 14 of the Limitation Act.

11. Record and proceedings be sent back to the Collector.

12. Rule is made absolute in the aforesaid terms.

(SANDEEP V. MARNE)
JUDGE

(MANGESH S. PATIL)
JUDGE

mahajansb/