

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 977 OF 2021
WITH WP/3880/2021 WITH WP/3882/2021
WITH WP/3944/2021

SUBHASH KASHINATH SINKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. A.B. Kale
AGP for Respondent Nos. 1 to 3 : Mrs. V.N. Patil - Jadhav
Advocate for Respondent No. 4 in WP/977/21,
WP/3880/21, WP/3882/21 : Mr. B.R. Survase
Advocate for Respondent No. 4 in WP/3944/21 : Mr. S.G. Sangle

CORAM : C.V. BHADANG &
SANDIPKUMAR C. MORE, JJ.
DATE : 5 JULY, 2022.

ORDER :-

By this petition, the petitioner is seeking a direction to respondent Nos. 2 and 3 to decide the representation and to pass a fresh award to determine compensation for the trees which, according to the petitioner, are standing in the acquired land, on the basis of the report of the Joint Measurement dated 27 September, 2015.

2. It is submitted by the learned counsel for the petitioner that the Land Acquisition Officer (LAO) by the award has refused to grant compensation for the trees on ground that the trees are subsequent to the issuance of the notification under Section 4 of the Land Acquisition Act, 1894 (Old Act). Incidentally, the award has been

passed after coming into force of the Right to Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act' for short).

3. Learned counsel for respondent No. 4 pointed out the order dated 7 June, 2022, passed by this Court, in Writ Petition No. 423/2021 in Rajendra Devrao Janjal and others Versus The State of Maharashtra and others, wherein the Division Bench of this Court in similar circumstances has relegated the petitioner therein to the remedy under Section 64 of the 2013 Act.

4. In the present case also it is undisputed that the petitioner has already filed an application under Section 64 of the 2013 Act, which is pending before the competent authority. Under Section 64 of the 2013 Act, the authority is empowered to decide *inter alia* a dispute as to amount of compensation. We find that the dispute about non grant of the compensation for the trees is essentially a dispute as to amount of compensation.

5. In that view of the matter, we dispose of the petition, with liberty to the petitioner to raise the issue pertaining to the non grant of the compensation for the trees, allegedly standing in the acquired land, under Section 64 of the 2013 Act.

SANDIPKUMAR C. MORE, J.

C.V. BHADANG, J.