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

WRIT PETITION NO.8610 OF 2019

Narayan s/o Atmaram Kashid & ors. ... PETITIONERS

VERSUS

The State of Maharashtra & ors. ... RESPONDENTS

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Mr. C. K. Shinde, Advocate for petitioners

Mr. P. S. Patil, A.G.P. for respondents no.1, 3 and 4

Mr. S. S. Rathi, Advocate for respondent No.2.

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**CORAM : DIPANKAR DATTA, CJ AND
N. B. SURYAWANSHI, J.**

DATE : FEBRUARY 16, 2022.

ORDER :

1. Writ Petition No.11338/2016, instituted by the petitioners, was disposed by a coordinate Bench of this Court on 14/6/2017 without interfering with the petitioners' challenge to proceedings for acquisition of their lands for laying railway tracks between Ahmednagar and Beed. However, noting that compensation was not disbursed in favour of the petitioners in terms of the

award dated 13/11/2011 made under the provisions of the Land Acquisition Act, 1894 (hereafter "1894 Act" for short) and that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereafter "2013 Act" for short) had intervened in the meanwhile, the Bench directed that compensation would be required to be paid by protecting the entitlement of the petitioners under the 2013 Act and it was accordingly directed.

2. In terms of the operative directions contained in the order dated 14/6/2017, a revised award bearing No.2017/LAQ/SR/55/2004 dated 29/9/2017 was declared by the Deputy Collector (Land Acquisition), Jayakwadi Project, Beed. It is not in dispute that without prejudice to their rights and contentions, the petitioners accepted the compensation so awarded by the Deputy Collector. However, in this writ petition, the petitioners claim that the revised award ought to be quashed and set aside, because the Deputy Collector while computing compensation in favour of the petitioners failed to

consider D.O. No.13013/01/2014-LRD(PL), dated 26/10/2015, issued by the Joint Secretary (L.R.), Department of Land Resources, Ministry of Rural Development, Government of India. In terms of such D.O. letter, for calculation of market value under Section 24(1)(a) of the 2013 Act, relevant date should be 1/1/2014, i.e., the date of commencement of the 2013 Act and not the date of issuance of preliminary notification under the 1894 Act.

3. In course of hearing, we have noticed that the D.O. letter dated 26/10/2015 does not form part of the writ petition, but has been annexed to the petitioners' rejoinder affidavit. The foundation for claiming enhanced compensation on the basis of the said D.O. letter dated 26/10/2015 does not appear to have been laid in the writ petition and a new plea, based on the said D.O. letter has been set up in the rejoinder affidavit for the first time.

4. Mr. Shinde, learned advocate for the petitioners, by placing reliance on the decision of a coordinate Bench of this Court reported in **2019 (1) Mh.**

L.J. 366 (Abuli Abdul Husain Vora, Daudi-Vora & anr. Vs. Union Territory of Dadra and Nagar Haveli & ors.), contends that the relief claimed by the petitioners is perfectly legal and justified and that the Court ought to direct the Deputy Collector, upon setting aside the revised award made by him, to quantify the petitioners' entitlement bearing in mind 1/1/2014 as the date for calculation of market value under Section 24(1)(a) of the 2013 Act.

5. Mr. Rathi, learned advocate for the respondent no.2 has, however, objected to the maintainability of the writ petition, citing provisions of Section 64 of the 2013 Act as well as by contending that a remedy of appeal before this Court is also available to any person aggrieved by the award passed by an authority. Reliance has been placed on the decision of a coordinate Bench of this Court dated 13/4/2017 in **Writ Petition No.9895/2015 (Shri Pratik Balvant Shirke & ors. Vs. The State of Maharashtra & ors.)** where, while bearing in mind the provisions of the 2013 Act, interference was

declined; however, liberty was granted to the petitioners therein to apply before the Collector, as required under Section 64 of the 2013 Act, within the time stipulated therein and if such application were made, the Collector was directed to decide the application on merits waiving the bar of limitation.

6. We have heard learned advocates for the parties and perused the materials on record. Ordinarily, a writ court ought not to interfere in disputes arising out of awards made under the 2013 Act since such enactment is a complete Code, regulating proceedings for acquisition of lands for public purpose, quantification of compensation and declaration of awards as well as other avowed purposes envisaged therein. If indeed the Deputy Collector was required to quantify compensation payable to the petitioners in terms of the D.O. letter dated 26/10/2015, the petitioners ought to have made a prayer to that effect while this Court was seized of Writ Petition No.11338/2016, disposed of on 14/6/2017. Had the D.O. letter dated 26/10/2015 been placed before the Court,

directions could have been issued for quantifying compensation, bearing in mind such letter. Not only did the petitioners fail to produce such D.O. letter dated 26/10/2015 before the coordinate Bench, the same has not even been made the foundation of the relief claimed in this writ petition. It is only at the stage of filing rejoinder that the D.O. letter dated 26/10/2015 has been brought on record. Without there being proper evidence to prove that the Deputy Collector had before him the D.O. letter dated 26/10/2015, yet, chose to turn a blind eye by not quantifying compensation by reckoning 1/1/2014 as the relevant date, it would be inappropriate for us to record a finding that the Deputy Collector was remiss in the discharge of his duty. In our considered opinion, interest of justice would be sufficiently served if this writ petition is disposed of, without examining the claim of the petitioners, by relegating them to the remedy that is available under Section 64 of the 2013 Act. It is ordered accordingly.

7. The petitioners are granted liberty to apply

under Section 64 of the 2013 Act within a period of six weeks from the date. Should such application be made by the petitioners, the same shall not be rejected on the ground of limitation, but shall be considered on its own merits and disposed of in accordance with law.

8. All contentions are left open.

9. No costs.

(N. B. SURYAWANSHI, J.)

(CHIEF JUSTICE)