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

22 WRIT PETITION NO.13268 OF 2021

ASHABAI ANIL KAMBLE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
WRIT PETITION NO.13295 OF 2021

ANIL RAYAJI KAMBLE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr G. K. Muneshwar, Advocate for petitioners;
Mr S. R. Yadav, A.G.P. for respondent Nos.1 & 4
Mr S. G. Bhalerao, Advocate for respondent No.3

**CORAM : RAVINDRA V. GHUGE
AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 6th June, 2022

PER COURT:

1. The second writ petition was not on board. Same has been preferred by the husband of the petitioner in the first writ petition. Both are identically situated and have identical grievances. Hence, by the consent of the parties, the second petition is taken on the cause list.

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2. We have considered the submissions of the learned Advocates for the petitioners and respondent No.3 and the learned A.G.P. The disputed aspect in this matter is with regard to whether notice under Section 21 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the 2013 Act') was served upon the petitioners. The learned A.G.P. submits that the record reveals service of notice. However, the document at page No.46 of the petition paper book, which is a communication by the Deputy Executive Engineer/Acquiring Body, dated 30/08/2021, indicates that the Peon in the Department, namely, Santosh Jadhav, had contacted one of the petitioners, namely, Anil Rayaji Kamble on telephone and had communicated that the acquisition proceedings have commenced and the hearing is scheduled in the office of the Sub Divisional Officer, Hingoli.

3. As such, it is a matter of circumspection, as to whether the petitioners had actually been served with notice of the hearing arranged in the office of the Sub Divisional Officer, Hingoli. Nevertheless, it is now informed to the Court by the learned Advocate representing the Acquiring Body that, an award has

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been delivered on 30/09/2021. There was a joint measurement of the lands of all land owners including the petitioners, whose Gut Nos. are 49, 50 and 51 at village Khanapur Chitta, Tq. and District Hingoli. The grievance of the petitioners is that the award has not been served upon them. They have not been intimated of the compensation amount having been quantified and that they should come forward and accept the amount. It is also their grievance that fruit bearing trees do not appear to have been taken into account while quantifying the compensation.

4. The award indicates that public notices were published in Daily 'Gaonwala' and Daily 'Super Samachar'. There is no dispute amongst the parties that these two newspapers are not recognized to be largely circulated newspapers. We have our own doubts, as to whether these two newspapers are read by the villagers, whose lands were subject matter of acquisition.

5. Nevertheless, the petitioners are not remediless. Section 64 of the 2013 Act permits them to raise objections as regards the measurement of the lands or the amount of compensation and other aspects, before the Collector. They can move an application to the Collector and require the matter to be referred to the

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competent authority to adjudicate upon their grounds, which are raised.

6. For the sake of brevity, Section 64 of the 2013 Act, is reproduced as under :-

“64. Reference to Authority. – (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:

Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made—

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire:

Provided further that the Collector may entertain an

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application after the expiry of the said period, within a further period of one year, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.”

7. Be that as it may, even if it is presumed that the petitioners were aware of the award dated 30/09/2021 and the limitation has expired, the Collector can entertain an application after expiry of the said period within a further period of one year, as per the proviso below Section 64 (2)(b), if he satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.

8. In view of the disputed aspects involved and considering the Covid-19 pandemic, ends of justice would meet by granting the benefit of the proviso below Section 64 (2)(b), to the petitioners.

9. As such, both these petitions are disposed off with the following directions :-

(a) The petitioners shall prefer their applications under Section 64 before the District Collector of Hingoli, on or before 05/07/2022.

(b) The District Collector, Hingoli, shall consider the said applications of these petitioners, after granting a reasonable

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opportunity of hearing to all the parties, who would be concerned with the said matter.

(c) After a hearing in accordance with the procedure laid down under the 2013 Act, the District Collector would pass appropriate reasoned orders, on or before 31/12/2022, by considering all the grounds raised by the petitioners in their applications.

(SANDIPKUMAR C. MORE, J.) (RAVINDRA V. GHUGE, J.)

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