

Digitally
signed by
TRUSHA
TUSHAR
MOHITE
Date:
2022.03.24
17:53:15
+0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.236 OF 2022

Raghunath Mogal Telore and Ors. Petitioners

Vs.

The State of Maharashtra & Ors. Respondents

Mr.Sachin Gite for the Petitioners

Mr.R.S.Pawar, A.G.P. for the State

**CORAM: S.V.GANGAPURWALA &
VINAY JOSHI , JJ.**

DATED : MARCH 23, 2022

P.C.

. Heard.

2. The application is filed by the petitioners under section 28-A of the Land Acquisition Act, 1894. Application is rejected. Aggrieved thereby, the present petition.

3. The learned counsel for the petitioners submits that in the award passed by the Special Land Acquisition Officer, the land of the petitioners is considered as seasonally Bagayat land. Application under section 28-A was filed on the basis of judgment delivered by the Reference Court in Land Acquisition Reference No.63 of 2003 with connected L.A.R.s decided under judgment dated 11.11.2011. In the

said case, the Reference Court had also determined the rate of the Jirayat land and also seasonally Bagayat land. The said aspect is not considered by the S.L.A.O. while rejecting the application.

4. The learned A.G.P. submits that in the award passed by the S.L.A.O. land of the petitioners was considered as Jirayat land and not seasonally Bagayat land. The Reference Court has passed the award in respect of seasonally Bagayat land. Authority has not committed any error while passing the impugned order.

5. We have gone through the judgment delivered by the Reference Court under section 18 of the Land Acquisition Act and also the order passed by the Authority under section 28-A.

6. It appears that the Reference Court while deciding the Reference under section 18 of the Land Acquisition Act under the judgment dated 11.11.2011 in L.A.R. No.63 of 2003 with connected L.A.R.s had observed that if the land would have been Jirayat land, then its value ought to have been Rs.5,32,875/- per hectare. The Reference Court considered the lands under the said reference as seasonally Bagayat land and awarded the compensation accordingly.

7. If the authority was considering the land to be Jirayat land then in that case also, Reference Court has considered the valuation of the Jirayat land and same ought to have been considered by the authority.

8. In the light of the above, impugned order is quashed and set aside. Parties are relegated before the authority for determining the application under section 28-A of the Land Acquisition Act afresh.

9. Petitioners shall appear before the authority on 06.04.2022.

10. Authority shall re-consider the case of the petitioners afresh and decide the same preferably within 9 months from the date of the appearance of the petitioner.

11. Petitioners are entitled to place on record additional documents, if the petitioners choose to.

12. Writ Petition stands disposed of. No costs.

(VINAY JOSHI, J.)

(S.V.GANGAPURWALA, J.)