

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 62 OF 2022

Vedu Sitaram Tile Since Deceased

Through his legal heirs

... **Petitioner**

V/s.

The State of Maharashtra & Ors.

... **Respondents**

.....

Mr. Sachin Gite, Advocate for the Petitioner.

Ms. A. A. Purav, AGP for the Respondent/State.

....

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

DATED : 16th MARCH 2022.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. With the consent of parties taken up for final disposal.
2. The application filed by the petitioner under Section 28A of the Land Acquisition Act, 1894 is rejected. The petitioner has filed application under Section 28A of the Act on the basis of the award passed by the Reference Court in Land Reference Nos. 104 of 2008 to 107 of 2008 decided under the Judgment and Order dated 25th November 2013. Prima facie reason for rejecting the application was that the petitioner did not adduce any evidence to show that his land is *bagayat* land and judgment of the reference Court so relied by the petitioner was in respect of the *bagayat* land.

3. The learned Counsel for the petitioner submits that the petitioner would place on record to show that the land of the petitioner is similarly situated as the lands in reference No. 104 of 2008 to 107 of 2008 decided on 25th November 2013.

4. The learned AGP submits that on the basis of available record, the authority has rightly rejected the application of the petitioner. In absence of judgment of the Reference Court with regard to the *jirayat* land, the case of the petitioner certainly could not have been considered by the Authority and the Authority has rightly rejected the application.

5. We have considered the submissions.

6. The land of the petitioner it appears is placed in Group-2 as is seen from the award. The lands viz. subject matter of the reference bearing No. 104 of 2008 with connected reference decided on 25th November 2013 were also placed in Group-2. The said aspect was also required to be considered. Of course, it is the duty of the petitioner to prove that his land is similarly situated as the lands that were subject matter of consideration before the reference Court.

7. Considering the fact that the petitioner is a rustic agriculturist residing in village and the fact that other land owners

whose lands were placed in similar Group-2 were awarded higher compensation, we are inclined to give one more opportunity to the petitioner to prove his case.

8. In the light of above conspectus, the impugned order is quashed and set aside.

9. The authority shall decide the application of the petitioner under Section 28A of the Act afresh. The petitioner is at liberty to place on record the additional documentary evidence to substantiate his case. The petitioner shall appear before the Authority on 7th April 2022. The Authority shall endeavour to dispose of the application as expeditiously as possible preferably within six months from the date of appearance of the petitioner.

10. Rule made absolute in the above terms. No costs.

(VINAY JOSHI J.)

(S. V. GANGAPURWALA J.)

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