

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) NO. 3646/2018

Vitthal s/o Nivrutti Sarkate and ors. ..VS.. State of Maharashtra and ors.

Office Notes, Office Memoranda of
 Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.S. Deshpande, Advocate for the petitioners
 Miss Trupti H. Udeshi, AGP for respondent nos.1 to 2
 Shri H.D. Marathe, Advocate for the respondent no. 3

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, J.J.

DATED : 26/07/2022

The petitioners have challenged the Award dated 24.04.2018 passed by the Sub-Divisional Officer / Land Acquisition Officer as being illegal and without following the mandatory provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short the "Act of 2013"). The challenge is also raised to the Notification dated 13.03.2015 issued by the respondent no. 1 on the ground that the same was issued pursuant to Ordinance No. 9 of 2014 which was subsequently replaced by Ordinance No. 4 of 2015.

The petitioners had challenged the Notification issued by the State Government under Section 4 of the Land Acquisition Act, 1894 dated 10.02.2014 in Writ Petition No. 4172/2015. That writ petition was allowed on 28.01.2016 and liberty was granted to the State Government to acquire the land in terms of the Act of 2013.

According to the learned Counsel for the petitioners various Ordinances issued by the Government were never converted into an Act and hence the Notification dated 13.03.2015 that was issued pursuant to Ordinance No. 9 of 2014 was also illegal.

In reply filed by the respondent no. 3, it has been stated that each petitioner has received the amount of compensation pursuant to the Award dated 24.04.2018. Despite receiving the amount of compensation the petitioners have challenged the said Award.

We had inquired with the learned Counsel for the petitioners as to whether the petitioners had accepted the amount of compensation under protest to enable them to challenge the Award notwithstanding the acceptance of the amount of compensation. The learned Counsel for the petitioners however could not point out any such averment in the writ petition.

In that view of the matter, since the petitioners have willingly accepted the amount of compensation pursuant to the same being determined by the Award dated 24.04.2018, it would not be permissible for them to now turn around and contend that the Award as passed pursuant to the acquisition proceedings was illegal. We are therefore not inclined to entertain the writ petition.

The writ petition stands dismissed. The questions of law sought to be raised are kept open. It is open for the petitioners to seek enhancement in the amount of compensation if they are not satisfied by the compensation awarded pursuant to the Award dated 24.04.2018. If such enhancement in the amount of compensation is claimed, the fact that this writ petition was filed on 20.06.2018 and was pending till today shall be taken into consideration. No costs.

JUDGE

JUDGE

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