

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

**WRIT PETITION NO.2788 OF 2022**

- 1) Shahadeo S/o Dadarao Kekan  
Age 60 years, Occu. Agril.,  
R/o Khokarmoha,  
Tq. Shirur (Kasar)  
District : Beed. ... Petitioner

Versus

- 1) The Union of India,  
Through General Manager,  
Central Railway, Chhatrapati  
Shivaji Terminus,  
Administrative Building,  
Mumbai-400 001.
- 2) The Deputy Chief Engineer,  
(Construction) Central Railway,  
Pune-411 001.
- 3) The Deputy Collector,  
Land Acquisition, (J.P. No.2),  
Beed, District Beed. ... Respondents

...

Mr. D. A. Bide, Advocate for Petitioner  
Ms. Sudha Chintamani, Standing Counsel for Respondent Nos.1 & 2  
Mr. P. G. Borade, AGP for Respondent No.3

...

**CORAM : NITIN B. SURYAWANSHI, J.**

**DATE : 08<sup>th</sup> JUNE, 2023**

**JUDGMENT :**

1. Rule. Rule made returnable forthwith. Heard finally by the consent of the parties.

2. This petition is filed under Articles 226 and 227 of the Constitution of India, seeking following prayer:-

*"C] By issuing appropriate writ, order or directions the orders*

*dated 15/06/2021, 30/08/2021, (Exh. "D") and 07/01/2022 (Exh. "E") passed by the learned Civil Judge, Senior Division, Beed below Exh.1 in L.A.R. No.483/2015 may kindly be quashed and set aside."*

3. Land of the petitioner out of Gut Nos.298, 303 and 301 at village Khokarmoha, Tq. Shirur (Kasar), District Beed, total admeasuring 0.25 R, was acquired for construction of 'Ahmednagar-Beed-Parli (V) New Railway Line'. Compensation offered by the Special Land Acquisition Officer was accepted by the petitioner under protest. Petitioner thereafter filed reference under Section 18 of the Land Acquisition Act, 1894 (for short 'the said Act'). The same was forwarded to the learned Civil Judge Senior Division, Beed, along with the report under Section 19 of the said Act, by the Special Land Acquisition Officer. In the reference, respondents appeared and filed their written statement. Issues were framed. Reference Court raised query about entitlement of petitioner in respect of landed property in Gut No.303, by the impugned orders dated 15/06/2021 and 30/08/2021.

4. Then, by the impugned order dated 07/01/2022, passed below Exhibit-1, the reference Court held that name of petitioner is not in the E-Statement and his application for enhancement of compensation cannot be considered in absence of heirship certificate and the said reference shall be considered only to the extent of prayer regarding enhancement of compensation of 7½ R

land in Gut No.301. Petitioner is aggrieved by these orders.

5. Heard learned advocate for petitioner, learned Standing Counsel for respondent Nos.1 and 2 and learned Assistant Government Pleader for respondent No.3. Perused the memo of writ petition, annexures thereto, the impugned orders and affidavit-in-reply filed by respondent No.3.

6. After going through the record and impugned orders, this Court is of the view that while passing the impugned orders, reference Court has exceeded its jurisdiction.

7. Report under Section 19 of the said Act submitted by the Special Land Acquisition Officer shows the petitioner as owner of acquired land Gut Nos.298, 303 and 301. Out of land Gut No.303, 0.15½ R area is acquired. C.C. voucher of final payment made to the petitioner in respect of 0.15½ R land out of Gut No.303 is there on record.

8. In the affidavit-in-reply filed by respondent No.3 it is stated that, though the petitioner's name is not shown in the award, the same is mentioned in the C.C. form. It appears that, as far as land Gut No.298 is concerned the same stood in the name of deceased father of the petitioner namely Dadarao, to the extent of 2 R land and the amount of compensation is already disbursed to

the petitioner's father. It is further stated that petitioner has failed to submit heirship certificate in the reference Court.

9. It is, therefore, clear that reference Court has failed to consider the report submitted by Special Land Acquisition Officer under Section 19 of the said Act, in proper perspective, while arriving at conclusion that petitioner's application is required to be considered only to the extent of enhancement of compensation of 7½ R land out of Gut No.301. Though the petitioner gave explanation and produced award E-Statement and copies of C.C. payment vouchers and also filed death certificate of his father namely Dadarao, the reference Court without considering those documents and legal position, directed to delete the portion in respect of land Gut No.303 by amending the reference. The documents filed by petitioner to demonstrate that property which was acquired was his ancestral and undivided Hindu joint family property and therefore, joint land reference was filed, are not properly appreciated by the reference Court.

10. In *Ram Kumar and Others Vs. Union of India (UOI) and Others, (1991) 2 SCC 247*, the Hon'ble Apex Court observed:-

*"Under Section 18 of the Land Acquisition Act, 1894 the only requirement for the person interested who had not accepted the award was to move a written application to the Collector requiring that the matter be referred for the determination of the Court. One of the grounds for the*

*accepting the award was the amount of compensation. Once such application was moved it was the duty of the Collector to make a reference to the Court. Under section 19 of the Act while making the reference the Collector was required to state for the information of the Court the particulars as mentioned in clauses (a) to (d) of sub-section (1) of Section 19 of the Act. Thus it was the duty of the Collector to mention not only the situation and extent of land but even particulars of any trees, buildings or standing crops thereon. The agriculturist whose land is acquired may not be fully conversant with the Khasra No. or area as entered in the Revenue records and the Union of India or the State acquiring such land should not be allowed to take any advantage of such ignorance of the agriculturists. Once an application is moved for making a reference under section 18 of the Act it becomes the duty of the Collector to send full information to the Court regarding the entire land acquired and it is thereafter the duty of the Court to decide the matter in accordance with law."*

11. It is clear from the above observations that in the report under Section 19, Collector is required to give information to the Court as to the particulars mentioned in clause (a) and (d) of Sub-section (1) of Section 19 of the said Act. Since in the report name of petitioner is reflected and further considering the fact that respondents at no point of time objected status of petitioner as claimant, the impugned orders of the reference Court are erroneous and unsustainable.

12. The impugned orders passed by the reference Court are unsustainable on the ground that they are beyond the scope of jurisdiction of reference Court under Section 18 of the said Act.

Under Section 18, the Court to which reference is made by the Collector at the instance of claimant, is to consider the claimant's objection to the measurement of land, amount of compensation and persons to whom it is payable or apportionment of compensation among the persons interested. In absence of any objection by the respondents, there was no occasion for reference Court to hold that petitioner is not entitled for additional compensation in respect of land Gut No.303.

13. Reference Court has clearly exceeded its jurisdiction while passing the impugned orders. In the result, writ petition is allowed in terms of prayer clause 'C'.

**(NITIN B. SURYAWANSHI, J.)**