

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

**WRIT PETITION NO.3855 OF 2022
WITH CA/16991/2022 IN WP/3855/2022**

**RAOSAHEB ALIAS SATYANARAYAN UTTAM KUDKE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioners : Mr. Kamble Shirish M.
AGP for Respondent Nos.1 to 4/State: Mr. S. J. Salgare
Advocate for Respondent Nos.5 to 8: Mr. N. B. Khandare
Advocate for Respondent Nos.9, 10, 12, 15 & 16, 11, 14, 17, 18, 19:
Mr. M. P. Tripathi h/f Mr. P. B. Ganpat

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**CORAM : MANGESH S. PATIL &
S. G. CHAPALGAONKAR, JJ.**

DATE : 19.01.2023

PER COURT :

- . We have heard the learned advocates for both the sides extensively.
2. The only issue that calls for adjudication at our hands is the right and power of the respondent – Collector who passed the impugned order in respect of payment of a part of compensation to the respondent no.5 in a land acquisition proceeding which has resulted in passing an award under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [for short ‘the Act’].
3. Pursuant to the extensive arguments advanced by both the sides and the litigation going on between them, there is indeed a serious dispute as to the entitlement to put up a claim to the compensation in

respect of the acquisition of a portion of land Gat No.362.

4. Irrespective of the merits or demerits of the respective cases of the parties, Section 64 of that Act in our considered view only enables the Collector to make a reference to the authority in the light of the objections being raised before him which he ventured to decide. The only course available to him was to make a reference.

5. Though the submissions have been advanced on behalf of the respondents to demonstrate that the petitioners' claim is not genuine, we are afraid, neither the Collector nor even this Court in exercise of the powers under Article 226 of the Constitution can undertake any such inquiry and adjudicate the dispute which is squarely covered by the situation as contemplated in Section 64 of the Act.

6. We quash and set aside the order which is sans jurisdiction and direct the respondent – Collector to resort to the provisions of Section 64 of the Act and make a reference as early as possible and in any event within four weeks.

7. The parties are at liberty to put up their claims before the authority by way of interim relief to have a share in the compensation depending upon their respective claims. If any such request is made, the authority may consider it and pass appropriate order.

(S. G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)

Sameer