

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

WRIT PETITION NO.5695 OF 2023

**SANDIPAN PRALHAD ALIAS BABARAO BADE THROUGH
GENERAL POWER OF ATTORNEY HOLDER UDDHAV BABARAO
BADE
VERSUS
THE UNION OF INDIA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS**

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Mr. S. R. Shirsat, Advocate for Petitioner

Mr. R. R. Bangar, Advocate for respondent Nos. 1 to 4

Mr. S. B. Yawalkar, AGP for respondent Nos. 5 to 9 - State

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**CORAM : RAVINDRA V. GHUGE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 28.06.2023

PER COURT :-

1. On 08.06.2023 after *prima-facie* appreciating the contentions of the learned Advocate for the Petitioner, we have passed the following order:-

1. *The petitioner has put forth prayer clauses (B) and (C) as under:*

(B) The respondents may please be directed to forthwith initiate the acquisition proceedings in accordance with the provisions contained in the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 in respect of the acquired land bearing Gat No. 261 admeasuring 18 R situated at Devdahiphal, Tq. Dharur, Dist. Beed alongwith 36 fruit bearing Mango Trees standing in it, as per the Inspection & Joint Re-

Measurement Report dated 06.07.2018 submitted by the respondent No.9, by issuing writ of mandamus or any other appropriate writ, order or direction in the nature of writ of mandamus.

(C) The respondents may please be directed to determine the quantum of compensation in respect of the acquired land bearing Gat No. 261 admeasuring 18 R situated at Devdahiphal, Tq. Dharur, Dist. Beed alongwith 36 fruit bearing Mango Trees standing in it as per market value under the Right to Fair Compensation & Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 alongwith interest @ 18% p.a. by issuing writ of mandamus or any other appropriate writ, order or direction in the nature of writ of mandamus."

2. An award was delivered on 09.09.2011 in the said proceeding. The petitioner claims to have filed his representation on 29.02.2012 which is within six months in the light of Section 13-A of the Land Acquisition Act, 1894. It is his contention that a Panchanama was carried out on 06.07.2018. If an application for correction is tendered within six months of the pronouncement of the Award, correction can be carried out.

3. Issue notices to the respondents, returnable on 22.06.2023.

4. Mr. R. R. Bangar, Standing counsel for the Union of Indian, waives service of notice on behalf of respondent Nos. 1 to 4. The learned AGP waives notice of service for respondent Nos. 5 to 9.

5. List this petition in the passing orders category on 22.06.2023.

2. It is apparent that the whole issue revolves around Section 13-A of the erstwhile Land Acquisition Act, 1894 (for short, "the Act of 1894"). The District Collector can initiate a corrective step within six months from the date of the order. Our observations in

paragraph 2 of the reproduced order as above, were based on the plea that the representation of the Petitioner dated 29.02.2012 was an application filed under Section 13-A of the Act of 1894 within months to that day.

3. The learned AGP has read out the typed copy of the said application and we find that there is no statement in the said application which could enable the District Collector to invoke his powers under Section 13-A of the Act of 1894. What has been stated in the application is that, when the ancestral land was partitioned mutually between the family members, an error crept into the partitioning process. The land being cultivated by the Petitioner was shown on paper to be the share that was standing in the name of his biological brother Laxman and the parcel of land being cultivated by Laxman, was shown in the name of the Petitioner.

4. Laxman is not arrayed as respondent in this proceeding before us. Moreover, the internal confusion between the family members cannot be a subject matter for the District Collector to rectify by exercising his powers under Section 13-A of the Act of 1894. These two brothers will have to first get the revenue records corrected and upon exchange of the lands or the entries in the

revenue records by consent, they could thereafter move the authorities, as may be permissible in law.

5. The other issue raised by the Petitioner is that there are 36 mango trees standing in that parcel of land which he is cultivating. These trees according to him were lost sight of when the award was delivered.

6. The learned AGP submits that if the Petitioner has justifiable reasons for condonation of delay and if the law permits such condonation, he may take recourse to the provisions of the Act of 1894 by initiating appropriate steps.

7. Since it is apparent even at first glance that the application dated 29.02.2012, can never be said to be an application under Section 13-A of the Act of 1894, this Petition cannot be entertained. The **same is, therefore, dismissed**. If the Petitioner has any legal remedy available in law, he may take recourse to such remedy. The rejection of this petition would not come in his way.

[Y. G. KHOBRAGADE, J.]

[RAVINDRA V. GHUGE, J.]