

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10960 OF 2021

MAYA SHANTILAL PAWAR
VERSUS
MITHUN KESHAV PAWAR AND ANOTHER

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Mr. Devdatt P. Palodkar, Advocate for the Petitioner.

Mr. Sandeep Mahajan h/f. Mr. Sandip R. Rathod, Advocate for the Respondent No.1.

Mr. S.S. Dande, AGP for the Respondent No.2/State.

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CORAM : SHARMILA U. DESHMUKH, J.

DATED : JANUARY 12, 2023.

PER COURT :

1. The Petitioner is aggrieved by the order of 7th September, 2021 passed by the Reference Court in LAR No. 114 of 2015 rejecting the objection application filed by the Petitioner pertaining to the payment of compensation.

2. Heard the learned counsel appearing for the parties.

3. Learned counsel for the Petitioner submits that the sale deed which had been executed by her husband on 27th October, 2013 was subsequent to the notification dated 2nd August, 2010, issued under sub-section (3) of section 1 of the Maharashtra Industrial Development Corporation Act (for short, “the MIDC Act”) and this aspect has not been considered by the Reference Court. He would urge that RCS No.337 of 2013 (now renumbered as RCS No.177 of 2020) and RCS No.346 of 2014 (*now renumbered as RCS No.180 of*

2021) were directed to be tagged along with LAR No.114 of 2014 and were required to be decided together.

4. *Per contra*, the learned counsel for the respondents submits that the submission as regards Section 1(3) of the MIDC Act is concerned, the submission was not raised before the Reference Court and hence the Reference Court had no occasion to consider the said objection. He would concede that RCS No.337 of 2013 and RCS No.346 of 2014 were tagged together along with LAR No.114 of 2014.

5. Both the parties are *ad idem* that since the submissions raised by the learned counsel for the Petitioner pertaining to Section 1 (3) of the MIDC Act, as well as the submission pertaining to hearing of all the three proceedings together is concerned, the same was not raised before the Reference Court and as such, the matter may be remanded for consideration by the Reference Court.

6. Considering the above, the order dated 7th September, 2021 is quashed and set aside.

7. The reference Court to decide the reference afresh by taking into consideration the submissions of the Petitioner as regards Section 1(3) of the MIDC Act and the order directing to tag all the three proceedings together. All rights and contentions of parties are kept open.

8. Writ petition is disposed of in the above terms.

(SHARMILA U. DESHMUKH, J.)