

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

WRIT PETITION NO.13487 OF 2018

**ASHOKKUMAR VIJAYKUMAR KOTECHEA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioner : Mr. Ajeet B. Kale
AGP for Respondent Nos. 1 to 3 : Mr. S.B. Yawalkar
Advocate for respondent No.4 : Mr. A.D. Pawar.

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

DATE : 17 JANUARY 2023

ORDER:-

Heard both sides.

2. The petitioner is aggrieved by the fact that he had agreed to execute sale deed by way of private negotiations, instead of resorting to acquisition under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, but the amount of compensation assessed by the Committee pursuant to Government guidelines treats his land as un-irrigated, when it is otherwise. He is, therefore, seeking direction to the respondents to either assess the amount payable as compensation by treating the land of the petitioner as irrigated one; or else, direct them to undertake the acquisition proceedings as contemplated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

3. Learned AGP and learned advocate for the respondent – acquiring body raise a preliminary objection regarding territorial jurisdiction of this bench to decide the writ petition. They would point out that the property situate in Buldhana district. The Committee headed by the District Collector Buldhana has determined the compensation to be paid to the petitioner and in view of Clause (2) of Article 226 of the Constitution of India as well as the Bombay High Court (Appellate Side) Rules contained in Chapter XXXI, the matter would lie before the Nagpur Bench.

4. Admittedly, the respondent No.4, which is Irrigation Division situated at Jalgaon, is the acquiring body. It therefore cannot be said that when the proposal has originated from the respondent No.4 from Jalgaon, which falls under the territorial jurisdiction of this bench; merely because some other steps have been taken and even the land of the petitioner situate within the territorial jurisdiction of Nagpur, this bench will not have jurisdiction to decide the writ petition.

5. There is several correspondence originating from Jalgaon as well. It can certainly be said that the part of the cause of action lies within the territorial jurisdiction of this bench, as is required under Clause(2) of Article 226 of the Constitution of India. It cannot be said that the whole cause of action has arisen beyond the territorial jurisdiction of this bench. The objection is, therefore, repelled.

6. Admittedly, there is no provision under any law, particularly, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, which would compel the land

owner to agree for and execute sale deed in lieu of the process of acquisition.

7. It does appear that the petitioner had agreed to go for such negotiations and transfer. However, the consent letters and the affidavits executed by him do not specifically mention any figure of consideration to be paid to him.

8. Even if the stand of the respondents is accepted that the amount was correctly calculated by the Committee constituted under the govt. resolution dated 12 May 2015, that would be an unilateral decision. Unless the figure was put to the petitioner and he had agreed to have it, we are afraid, the entire process that was undertaken, was only by way of a prelude to the sale-deed, that was to be executed and there is nothing to demonstrate that there was consensus *ad-idem*.

9. No person can be compelled to part with his property, except by the process of law. Admittedly, possession of petitioner's land has been taken over long back.

10. Faced with the situation, learned Advocate Mr. Pawar, for the respondent No.4 would refer to para.7 of the affidavit in reply and would submit that the respondent No.4 is still ready to forward a revised proposal for fixing a fresh amount, if it is approved, which can be offered to the petitioner. The request is indeed innocuous.

11. Considering the scenario, when the petitioner is not bound by any law to sell his land, the only course that would now be available, is that the respondents consider his request afresh, determine compensation as per the government policy, offer it to him and if he is

ready and consents, get the sale deed executed. Else, the only course available would be, to resort to the acquisition process, as contemplated under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

12. We dispose of the petition by enabling the parties to go for private negotiations afresh, which shall be concluded within four months. Else, the acquisition process shall be commenced within three months thereafter and shall be concluded within the statutory period.

[S.G. CHAPALGAONKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

grt/-