
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7185 OF 2022

Yashwant Bhagirath Patil And
Ors.

...Petitioners

Versus

Rubi Parvej Bhiwandiwalla And
Ors.

...Respondents

Mr. R.D. Suryawanshi a/w Mr. Suraj N. Naik i/by Mr. Ghansham Jadhav, Advocates for Petitioner.

Mr. M.M. Pabale, AGP for Respondent Nos. 8 & 10.

**Mr. A.Y. Sakhare, Sr. Adv a/w Mr. Rohan S. Mirpuray
a/w Mr. Rahul Rathod, Advocates for Respondent No. 6.**

**CORAM : B. P. COLABAWALLA &
M.M. SATHAYE, JJ.**

DATE : JULY 3, 2023

P.C.

1. By the present petition, the Petitioners challenge the validity and propriety of two awards both the dated 31st May, 2019 in relation to lands bearing Survey Nos. 54 and 56 at village Surai, Taluka Bhiwandi District Thane. The main challenge in the present Petition to the said awards is on the basis that it is the Petitioners who are entitled to compensation under the said awards and not Respondent No 6. The learned counsel appearing on behalf of the Petitioners pointed out that

immediately after the awards were passed on 31st May, 2019, the Petitioners filed objections before Respondent no. 8 opposing disbursal of any amount to Respondent No. 6. While those objections were pending, Respondent No. 8 disbursed the amounts to Respondent No. 6 via RTGS on 14th June, 2019. After disbursal of the amount to Respondent No. 6, on 8th July, 2019, Respondent No. 8 called upon the Petitioners to furnish documents of title which the Petitioners furnished.

2. In these facts, the learned Counsel for the Petitioner submitted that while the objections of the Petitioners were pending, no amounts could have been disbursed to Respondent No. 6, especially before deciding those objections. On this limited ground, the Petitioners have sought to set aside the awards passed on 31st May, 2019.

3. Mr Sakhare, the learned Counsel appearing on behalf of the Respondent No. 6, brought to our attention section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short ‘the 2013 Act’). Mr. Sakhare submitted that under Section 64, any person interested who has not accepted the award, may, by written application to the Collector, require that the matter may be referred by the Collector for determination to the Authority, whether his objection be to the

measurement of the land, the amount of compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under chapters V and VI, or the apportionment of compensation among the persons interested. Since the grievance of the Petitioners is that the amount of compensation could not have been paid to Respondent No. 6 before his objections were decided, the objections of the Petitioners (page 290 of the paper book) can be treated as an application for reference to the Authority who will then decide the rival claims of the Petitioners and Respondent No. 6. Mr. Sakhare also fairly stated, on instructions, that since the amount has already been disbursed to Respondent No. 6, instead of depositing the amount with the said Authority (under Section 64), Respondent No. 6 shall furnish an unconditional bank guarantee to secure the amounts already disbursed to Respondent No. 6 in relation to Survey Nos. 54 and 56 respectively.

4. The learned Counsel appearing on behalf of the Petitioners fairly stated that if this course of action is adopted, he is not interested in challenging the award *per se*, but that the compensation awarded ought to be paid to the Petitioners, rather than to Respondent No. 6.

5. It is also agreed between the parties that the compensation that is being claimed by the Petitioners is the amount of Rs. 1,96,94,905/- together with interest.

6. In these circumstances, we direct that the objections of the Petitioners dated 7th June, 2019 (exhibit M page 290 of the paperbook) shall be treated as a written application of the Petitioners to the Collector for referring the disputes between the Petitioners and Respondent No. 6 to the Authority under Section 64 of the 2013 Act.

7. The collector shall thereafter refer the disputes between the petitioners and Respondent No. 6 to the Authority referred to in section 64 of the 2013 Act. The Authority shall thereafter decide the disputes in accordance with the law and *inter alia* determine as to whom the compensation is payable under the awards dated 31st May, 2019.

8. As per the statement of Mr Sakhare, and which was made on instructions, Respondent No. 6 shall furnish the unconditional bank guarantee in the amount Rs. 1,96,94,905/- to the said Authority. What is to be done in relation to the said bank guarantee shall be decided by the said Authority at the time it passes final orders in the matter.

9. It is needless to clarify that we have not opined on the merits of the matter regarding the rival contentions of parties and those shall be decided by the Authority on its own merit and in accordance with law.

10. The Authority shall endeavour to decide the dispute referred to it as expeditiously as possible and preferably within a period of 8 months from today.

11. The Writ Petition is disposed of in the aforesaid terms. However, no order as to costs.

[M.M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]