



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

WRIT PETITION NO. 6418 OF 2023

Rajiv Lalit Sangtani and Ors.

.. Petitioners

Versus

The Special Land Acquisition
Officer No. 16 and Ors.

.. Respondents

***Mr. Gaurav Potnis i/b Mr. Pallavi Potnis, Advocate for
the Petitioners.***

***Mr. A.I.Patel Addl. G.P. a/w Mr. R.S. Pawar , AGP for
the Respondent-State.***

***Mr. Abhijit Kulkarni a/w Ms. Seta Shah Mr. Krushna
Jaybhay Advocates for Respondent No. 3- Pune Municipal
Corporation.***

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

DATE : OCTOBER 31, 2023

P. C.

The above Writ Petition is filed inter-alia seeking an order and direction to quash and set aside the Award bearing No. 573A dated 28/02/2023, declared by the Collector, Pune and the notice dated 28/02/2023 issued by Collector, Pune under Section 37(2) of the Right to Fair Compensation and Transparency in Land Acquisition and Rehabilitation and Resettlement Act, 2013 (for short

“the 2013 Act”). In the alternative, it is prayed that a direction be passed against the Land Acquisition Rehabilitation and Resettlement Authority set up under Section 51 of the 2013 Act to consider the date of valuation as 01/01/2014. As and by way of interim relief, what is prayed is that execution of notice dated 28/02/2023 issued by the Collector, be stayed.

2 To decide the controversy in the present Writ Petition, it would be necessary to set out some relevant facts. The land in question is 7284.93 sq. mtrs. from CTS No. 55/1/A, Plot No. 438 and having sub plot Nos. 1,2,3,8 and 9 situated at Gultekdi, Taluka - Pune and more particularly described in paragraph 2 of the Writ Petition (for short the **“said land”**). With reference to the said land, the acquisition proceedings were initially initiated under the provisions of the Land Acquisition Act, 1894 (for short **“the 1894 Act”**) by issuing a notification under Section 4 thereof on 30/09/2011. Before these acquisition proceedings could be taken to its logical conclusion [by passing an Award], the 1894 Act was repealed and the 2013 Act was brought in force with effect from 01/01/2014. Thereafter, an Award was passed on 22/12/2014 determining the compensation for the said land at Rs. 71,55,38,357/-.

3 The Acquiring Body (for whom the lands were acquired) namely the Pune Municipal Corporation (Respondent No. 3 herein), being aggrieved by the said Award, preferred the Writ Petition Stamp No. 4858 of 2015 (final number being WP No. 4542 of 2018). In that Writ Petition, an interim order was passed on 08/10/2015 directing payment of Rs. 18,83,88,089/- to the Petitioners herein. This order was passed on the basis that according to the Pune Municipal Corporation, only this amount could have been awarded and that any amount awarded above this was highly excessive. Since this amount of Rs. 18,83,88,089/- was paid to the Petitioners, on 11/03/2016, possession of the said land was handed over by the Petitioners to the Pune Municipal Corporation. Thereafter, the said Writ Petition was dismissed by this Court on merits on 25/04/2019.

4 Being aggrieved by the aforesaid decision, the Pune Municipal Corporation preferred an SLP before the Hon'ble Supreme Court. The Hon'ble Supreme Court by its order dated 18/02/2022, set aside the Award dated 22/12/2014 and directed the Collector to pass a fresh Award in accordance with law. Pursuant to this order of the Hon'ble Supreme Court, the Collector has passed the impugned Award dated 28/02/2023, under which he has declared that the Petitioners are entitled to compensation in the sum of

Rs.16,77,78,604/-. Since an excess amount was already paid to the Petitioners under the interim order passed by this Court on 08/10/2015, the impugned demand notice dated 28/02/2023 was sent to the Petitioners to refund the excess amount of Rs.2,06,09,483/- to the SLAO-16, Pune.

5 In this factual backdrop, Mr. Potnis, the learned counsel appearing on behalf of the Petitioners, *inter alia* submitted that the new Award passed by the Collector is bad and illegal *inter-alia* on the ground that the Award takes the value of the said land as on 30/09/2011 (i.e. the date of the Section 4 Notification), when in fact the valuation ought have to be taken as on 01/01/2014, which is the date on which the 2013 Act came into force. He submitted that this is clear from a letter issued by the Government of India to the Government of Maharashtra dated 26/10/2015 (page 335 of the paper book). This letter, issued by the Joint Secretary of Government of India, instructed all Divisional Commissioners / Dist. Collectors that in cases where no Award has been passed until 31/12/2013 under the 1894 Act, the calculation of compensation shall be made based on valuation of the land as on the date of commencement of the 2013 Act, namely, 01/01/2014. He submitted that *ex-facie*, the Award is bad on this count alone because the

valuation was not done as on 01/01/2014 but was done as on 30/09/2011. He submitted that if the valuation is to be done as on 01/01/2014, the compensation payable to the Petitioners would be much higher than what was declared in the Award and therefore even the notice asking the Petitioners to refund the sum of Rs.2,06,09,483/- is *ex-facie* illegal and has to be set aside.

6 On the other hand, Mr. Kulkarni, the learned counsel appearing on behalf of the Pune Municipal Corporation brought to our attention that being aggrieved by the compensation awarded to the Petitioners, they have already preferred a Reference Application under Section 64 of the 2013 Act, to the concerned Authority. Having availed of this facility, the Petitioners cannot now challenge the Award by filing the present Writ Petition. He submitted that the same arguments that are canvassed before us in the present Writ Petition can also be canvassed before the Reference Authority. If the Reference Authority find merits in these contentions, it always has power to direct the concerned Collector to recalculate the compensation on the basis of taking the valuation as on 01/01/2014 rather than on 30/09/2011.

7 Mr. Kulkarni, also pointed out that when the Hon'ble Supreme Court set aside the order of this Court (which upheld the Award dated 22/12/2014), it has clearly set out that if the compensation amount determined by the Collector is not acceptable to the land owners, it will be open for them to file reference proceedings against that Award, if so advised. Mr. Kulkarni submitted that it is pursuant to these directions of the Hon'ble Supreme Court, that the Petitioners have already filed a Reference Application and which is referred to by us earlier. Mr. Kulkarni also pointed out that the Hon'ble Supreme Court had directed that in the event the Award is declared for an amount lesser than the amount paid over to the Petitioners [namely lesser than Rs. 18,83,88,089/-] then appropriate directions can be passed by the Collector in that regard. Mr. Kulkarni submitted that since the compensation determined under the impugned Award [namely Rs.16,77,78,604/-] is lesser than the amount already paid over to the Petitioners [namely Rs.18,83,88,089], the Collector has rightly issued the impugned notice asking the Petitioners to deposit with the SLAO-16, Pune the excess amount of Rs.2,06,09,483/- paid over to the Petitioners. He therefore submitted that there was no merit in the above Writ Petition and the same ought to be dismissed with the costs.

8 We have heard the learned counsel for the parties at some length. We have also perused the papers and proceedings in the above Writ Petition. It is not disputed that the Hon'ble Supreme Court, by its order dated 18/02/2022, has quashed and set aside the first Award passed in the above matter namely the Award dated 22/12/2014. The Hon'ble Supreme Court has also in its order recorded that if the compensation amount determined by the Collector is not acceptable to the landowners, it will be open for them to file reference proceedings against that Award, if so advised. The Hon'ble Supreme Court has also directed that if the amount determined under the fresh Award is less than the amount already paid to the Petitioners, then the Collector can pass appropriate directions in that regard. For the sake of convenience, the relevant portion of the Hon'ble Supreme Court's order dated 18/04/2022 is reproduced hereunder:

“As the award dated 22.12.2014 stands quashed and set aside in terms of this order, the reference arising from the stated award would not survive for consideration. That also be deemed to be disposed of in terms of this order. We order accordingly.

If the compensation amount determined by the Collector is not acceptable to the land owners, it will be open to them to file reference proceedings against that award, if so advised.

It is brought to our notice that a sum of Rs.18,00,00,000/- (Rs. Eighteen crores only) was deposited by the Commissioner pursuant to the award passed by the

SLAO, which now stand set aside. The said amount has been disbursed to the land owners.

Therefore, the land owners shall have to abide by the award, to be passed by the Collector and in the event the compensation amount determined is less than the disbursed amount, appropriate directions can be passed by the Collector in that regard.

We may not be understood to have expressed any final opinion about the merits of the determination of the compensation amount, which as aforesaid will have to be decided in accordance with law.

The Collector shall complete the proceedings not later than six months from the date of receipt of copy of this order.

Needless to observe that the parties are relegated on the clear understanding that this order does not affect the notification already issued and the fresh determination should be as per the provisions of law as applicable at the relevant point of time in reference to the stated notification.

No order as to costs.”

9 In the present case, now a fresh Award is passed by the Collector dated 28/02/2023 determining the compensation payable to the Petitioners at Rs.16,77,78,604/-. Being aggrieved by this determination, the Petitioners have already filed a Reference Application u/s. 64 of the 2013 Act before the concerned Reference Authority and which is pending. Once this is the case, we are in agreement with Mr. Kulkarni that the present Writ Petition cannot be entertained. The Petitioners cannot have two parallel proceedings running at the same time, raising the same arguments, challenging

the compensation determined under the impugned Award. This is more so in the facts of the present case because the Hon'ble Supreme Court has, in its order dated 18/02/2022, clearly opined that if the compensation amount determined by the collector at the time of passing the fresh award is not acceptable to the landowners (the Petitioners herein) it will be open to them to file reference proceedings against the fresh Award. In these circumstances, we find that the prayers sought in the present Writ Petition challenging the impugned Award cannot be sustained.

10 As far as the challenge to the notice dated 28/02/2023 is concerned, we find that the said notice has been issued by the Collector pursuant to the directions given by the Hon'ble Supreme Court in its order dated 18/02/2022. The Supreme Court had specifically directed that the Collector can pass appropriate directions if the amount mentioned in the fresh Award is lesser than the amount already paid to the Petitioners. It is only to comply with the directions of the Hon'ble Supreme Court that the Collector has issued the impugned notice calling upon the Petitioners to deposit the amount of Rs.2,06,09,483/- with SLAO-16, Pune. We do not find any illegality or perversity in the impugned notice dated

28/02/2023, and which in fact has been issued in compliance with the directions given by the Hon'ble Supreme Court.

11 We therefore find no merit in the above Writ Petition. It is accordingly dismissed.

12 We make it clear that we have not gone into the merits of the compensation determined under the impugned Award and disposal of this Writ Petition will not mean that we have approved the manner in which the compensation has been decided in the impugned Award. The challenge to the compensation determined under the impugned Award raised by the Petitioner in the pending reference u/s. 64 of the 2013 Act will be determined by the Reference Authority in on its own merits and accordance with law. All contentions of all parties in this regard are expressly kept open to be agitated before the Reference Authority.

13 At this juncture, Mr. Potnis, the learned Counsel appearing on behalf of the Petitioners, sought some interim protection, to allow him to challenge this order before the Hon'ble Supreme Court. Considering his request and considering that the

amount to be recovered from the Petitioners is a large sum, and which is not yet recovered from the Petitioners, we direct that the impugned notice dated 28/02/2023 shall not be acted upon for a period of 8 weeks from today.

14 This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[M.M. SATHAYE, J.]

[B. P. COLABAWALLA, J.]