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

WRIT PETITION NO.12774 OF 2023

Maharashtra Krishna Valley Development
Corporation Limited .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

WITH

WRIT PETITION NO.7374 OF 2021

Thakubai Talsa Bhagat (Deceased)
Kamal Dagadu Ladake & Ors. .. Petitioners

Versus

The State of Maharashtra & Ors. .. Respondents

UTKARSH
KAKASAHEB
BHALERAU

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UTKARSH KAKASAHEB
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Ms.Chaitrali Deshmukh, Advocate for the Petitioner in
WP/12774/2023.

Mr.R.S. Pawar, AGP for State/Respondent Nos. 1 to 3 in
WP/12774/2023.

Ms.M.S.Bane, AGP for State/Respondent Nos. 1 to 3 in
WP/7374/2021.

Mr.Gaurav Potnis i/b P.H. Potnish, Advocates for the
Petitioners in WP/7374/2021.

Mr.Nitin Gaware Patil, Advocate for Respondent No.4 in
WP/7374/2021.

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**
DATE : DECEMBER 12, 2023

P. C.

1. Rule in both the above Petitions. The respective Respondents waive service. Rule, with the consent of parties, made returnable forthwith and heard finally.
2. Writ Petition No.7374 of 2021 is filed by the Petitioners seeking an appropriate writ, order, or direction to the Respondents to forthwith make payment to the Petitioners as per the Award declared on 19th November 2018 under Section 28A of the Land Acquisition Act, 1894 (for short “**the 1894 Act**”), along with interest.
3. Writ Petition No.12774 of 2023 is filed by the Maharashtra Krishna Valley Development Corporation (**the Acquiring Body**) *inter alia* seeking to quash and set aside the Award dated 19th November 2018 passed under Section 28A in favour of the Petitioners in Writ Petition No.7374 of 2021.

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4. For the sake of convenience, the Petitioners in Writ Petition No.7374 of 2021 shall hereinafter be referred to as "**the Petitioners**" and the Petitioner in Writ Petition No.12774 of 2023 shall hereinafter be referred to as "**the Acquiring Body**".
5. We have noticed that the reliefs sought in both these Writ Petitions are diametrically opposite to each other. In other words, if one Petition succeeds the other must fail. In these circumstances, we have decided to take up Writ Petition No.12774 of 2023 first, because if the Acquiring Body is able to establish that the Award passed on 19th November 2018 [under Section 28A of the 1894 Act] deserves to be quashed and set aside, there would be no question of granting any relief to the Petitioners in Writ Petition No.7374 of 2021.

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6. Although several grounds are raised in the above Writ Petition, the only ground on which the Acquiring Body seeks quashing of the Award dated 19th November 2018 is that when the Application of the Petitioners under Section 28A was pending, the order passed by the Reference Court [under Section 18] had not attained finality as it was subjected to an Appeal. Thereafter, the Lok Adalat passed an order

dated 10th February 2018 permitting the State to voluntarily withdraw the Appeal. Since it was in the Lok Adalat proceedings that the Appeal was withdrawn by the State, according to the Acquiring Body, there is no Award passed by the “Court” [as contemplated under Section 28A], and therefore, an Application under Section 28A was not maintainable.

7. To understand this controversy, it would be necessary to refer to some undisputed facts. The land of the Petitioners was acquired for the benefit of the Acquiring Body for the Chaskaman Project. An award under Section 11 also came to be passed on 31st March 1989. Though the Petitioners did not file any Reference under Section 18, owners of other lands covered under the same Section 4 notification, preferred Land Reference No.352 of 1993. This Land Reference was decided by the Reference Court vide its judgment and order dated 20th December 2000. On learning of this judgment, the Petitioners applied for a certified copy on 5th January 2001, and which was ready on 1st August 2001. On 26th September 2001, the Petitioners filed their application before Respondent No.3 under Section 28A of the 1894 Act seeking re-determination of the amount of compensation payable to them on the basis of the amount of compensation

awarded by the Reference Court. This Application of the Petitioners was finally decided by Respondent No.3 by passing an Award under Section 28A on 19th November 2018 and which is impugned in the Writ Petition filed by the Acquiring Body. Whilst the Section 28A Application was pending, the State preferred a First Appeal from the order of the Reference Court, and which was subsequently withdrawn on 10th February 2018 [i.e. before the date of the impugned Award dated 19th November 2018].

8. In this factual backdrop, Ms. Deshmukh, the learned counsel appearing on behalf of the Acquiring Body, submitted that the Award under Section 28A was unsustainable because the order passed by the Reference Court was subjected to an Appeal, and thereafter, it was the Lok Adalat that passed an order dated 10th February 2018 permitting the State to voluntarily withdraw the Appeal. Since the Appeal was withdrawn by the State before the Lok Adalat, there is no Award passed by the “Court” [as contemplated under Section 28A], and therefore, an Application under Section 28A was not maintainable. In support of this argument, Ms. Deshmukh relied upon on a decision of this Court in the case of ***Umadevi Rajkumar Jeure & Ors. V/S District Collector, Solapur &***

Ors., [2021 SCC Online Bom 917]. This is the only ground on which Ms. Deshmukh submitted that the Award dated 19th November 2018 be quashed and set aside. Though several other grounds are taken in Writ Petition No.12774 of 2023, apart from the contention recorded above, no other argument or contention, and in our view correctly so, was canvassed or raised before us by Ms. Deshmukh.

9. We have heard Ms. Deshmukh on this aspect. We find absolutely no merit in the aforesaid contention. The facts narrated above clearly reveal that the Appeal filed by the State was voluntarily withdrawn by it before the Lok Adalat. The Award / order passed by Respondent No.3 under Section 28A, is not based on any Award/order passed by the Lok Adalat but is based on the order passed by the Reference Court under Section 18 of the 1894 Act. Once this is the factual position before us, the reliance placed by Ms. Deshmukh on the judgment of ***Umadevi Rajkumar Jeure (supra)*** is wholly misconceived. In this judgment, another Division Bench of this Court *inter alia* held that an Award/order of the Lok Adalat cannot be deemed to be: (i) a decree of the Court which has referred the matter to the Lok Adalat; and (ii) a decree passed under Part III of the Land Acquisition Act, 1894. We find that the reliance placed on this

decision is wholly misplaced because the factual situation before us, as mentioned earlier, is completely different. Here in fact, there is no Award by the Lok Adalat. However, there is an Award passed by the Reference Court under Section 18. It is based on this Award/order of the Reference Court that Respondent No.3 has passed an Award dated 19th November 2018 [under Section 28A] in favour of the Petitioners. We, therefore, find absolutely no merit in this contention. We also find from the material on record that before the Lok Adalat, the State had sought a simpliciter withdrawal of its own appeal, which simply means that the even a vestige of opposition to the Award passed by the Reference Court ceased to exist, thereby making the Award passed by the Reference Court the final adjudicated position. That is the Award on which the order/Award under Section 28A is based.

10. Since this is the only argument canvassed before us and which we have rejected, we find there is no merit in Writ Petition No.12774 of 2023. Rule is accordingly discharged and Writ Petition No.12774 of 2023 is hereby dismissed.

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11. Since Writ Petition No.12774 of 2023 (filed by the Acquiring Body) is dismissed, we find that the relief sought in Writ Petition No.7374 of 2021 deserves to be granted. We say this because now, since the challenge to the Award passed under Section 28A is repelled by this Court, the Acquiring Body will have to deposit the compensation as determined by the Award dated 19th November 2018. Since about five years have elapsed from the passing of the Award, Respondent No.3 (in WP/7374/2021) shall issue a letter to the Acquiring Body to deposit the money together with interest as per the Award, within a period of 2 weeks from today. The Acquiring Body shall thereafter deposit with Respondent No.3, the aforesaid amount within a period of 16 weeks from the date of receipt of the letter from Respondent No.3.

12. It is made clear that Respondent No. 3 shall calculate the interest taking into consideration even the period that we have granted to the Acquiring Body for making the deposit with the 3rd Respondent. In other words, interest will also be calculated for a period of 18 weeks from today.

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13. Once the aforesaid deposit is made by the Acquiring Body, Respondent No.3 shall, within a period of 1 week from the date of deposit, disburse the payment to the Petitioners in Writ Petition No.7374 of 2021, as determined by the Award dated 19th November 2018.
14. Rule is accordingly made absolute in the aforesaid terms and Writ Petition No.7374 of 2021 is disposed of in terms thereof.
15. Though we have disposed of Writ Petition No.7374 of 2021, we place it on board on 30th April 2024 for reporting compliance.
16. 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.

[SOMASEKHAR SUNDARESAN, J.] [B. P. COLABAWALLA, J.]