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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15511 OF 2022
WITH
WRIT PETITION NO.2570 OF 2022

	Mr.Faizal Ismail Sutar, An Adult, Indian Inhabitant, Residing at Near Yeshwant High School, 30E, Shaniwar Peth, Karad, - 415 110 District Satara.	...Petitioner
	Versus....	
1.	The State of Maharashtra, Through Government Pleader, PWD Building, High Court, Mumbai – 400 001.	
2.	Collector & District Magistrate, Satara HO, Satara – 415 001, Near Powai Naka.	
3.	Land Acquisition Officer, Opposite of Anti Corruption Bureau Office, Satara – 415 002.	...Respondents

Mr.Sanjay Jain with Mr.Kumar A. Singh, Mr.Z.A. Khan i/b Mr.Gaurav R. Shrawat i/b Mr.Akshay M. Gosavi for the Petitioners in both the WPs.

Mr.Vasant S. Gokhale, “B” Panel counsel for the State – Respondent Nos. 1 to 3 in both the WPs.

**CORAM : R.D. DHANUKA &
M.M. SATHAYE , JJ.**

DATE OF RESERVED : 13TH FEBRUARY, 2023.

DATE OF PRONOUNCEMENT : 24TH MARCH, 2023.

JUDGMENT : (Per R.D. Dhanuka, J.) :

1. Rule. Mr.Gokhale, ‘B’ Panel Counsel waives service for the

Respondent Nos.1 to 3 in both the matters. Rule is made returnable forthwith.

2. By the Writ Petition No.15511 of 2022 filed under Article 226 of the Constitution of India, the Petitioner has prayed for a Writ of Mandamus against the Respondent No.1 to pay enhanced compensation for acquisition contemplated under Sections 26 to 30 of the Land Acquisition Act, 1894 read with Section 24(1) (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short "the said Fair Compensation Act"). The Petitioner also prays for a Writ of Mandamus against the Respondent No.1 to refer to an appropriate authority for compliance and payment of enhanced compensation under Sections 26 to 30 of the Land Acquisition Act, 1894 and to take appropriate steps for deciding the entitlement and apportionment thereof.

3. By the Writ Petition No.2570 of 2022 filed under Article 226 of the Constitution of India, the Petitioner has prayed for a Writ of Mandamus against the Respondent No.1 to refer the matter of apportionment to the Civil Court as per provisions contained in Section 30 of the Land Acquisition Act, 1894 read with Section 24(1)(2) of the Fair Compensation Act calling upon the Respondents to apportion the amount as deposited in the Civil Court with interest to the Petitioner in terms of Sections 24, 26, 27, 28 & 30 of the Fair Compensation Act.

Facts and Submissions in Writ Petition No.15511 of 2022 :-

4. The Petitioner claims to be the legal heir and representative of late Mr.Abdul Karim Suleman Shaikh who was the grandfather of the petitioner by way of oral Hiba-nama dated 21st April 2006 in respect of undivided share and interest in respect of land bearing R.S. No.144/A/1 admeasuring 14 hectares (old Survey No.571/A) situated in Village Malakpur, Tehsil Kharad, District Satara, Maharashtra (hereinafter referred to as "the writ property").

5. It is the case of the petitioner that immovable property bearing No. R.S. No. 144/A/2 admeasuring 26 R (carved out of original survey no.571/A) was originally owned by Late Vithal Balkrishna Shikare who conveyed the said writ property under a Registered Mortgage Deed dated 6th July 1938 in the name of Bhau Nagu Yedge and his family members for a sum of Rs.500/-. It is the case of the petitioner that in consideration of Rs.300/- out of the said amount, the mortgagees were to enjoy the fruits of the said property while for the rest of the amount of Rs.200/-, an interest at the rate of Rs.7.5% p.a. was to be paid.

6. Some time in the year 1947, Late Vithal Balkrishna Shikhare filed a suit bearing No.6879 of 1947 for redemption of mortgage to obtain relief from debt under the Bombay Agricultural Debt Relief Act. The said suit was dismissed on 16th August 1949 on the ground that the Late Vithal Balkrishna Shikhare (plaintiff therein) was a non-agriculturalist.

7. It is the case of the Petitioner that Mr.Bhau Nagu Yedge in whose favour the Deed of Mortgage was executed on 6th July 1938 along with his family members sold the writ property to Abdul Karim Suleman Shaikh by a Registered Sale Deed dated 9 February 1970. The name of the said Mr.Abdul Karim Suleman Shaikh was mutated in the revenue record at entry no.15035. Some time in the year 1971, the writ property was sought to be acquired for the public purpose by the State Government. Notification under Section 4 of the Land Acquisition Act, 1894 was issued on 18th March 1971. It is the case of the Petitioner that subsequently thereto form for cancellation of notification under Section 4 of the Land Acquisition Act was issued on 3rd December 1971.

8. On 13 April 1972, the notification under Section 6 of the Land Acquisition Act was issued by the Additional Commissioner, Pune. The total area

lying in Revenue Survey No.571/A which belonged to Late Mr.Abdul Karim Suleman Shaikh was formed a part of the acquisition proceedings. It is the case of the Petitioner that at the time of the notification under Section 4 of the Land Acquisition Act, 1894, the Revenue Survey No.571/A formed a part of Village Karad. However, by the time, notification under Section 6 of the Land Acquisition Act, 1894 came out, these villages including Revenue Survey No.571/A fell under new revenue Village Malakpur. The new revenue survey number allocated was Ry. Survey No.144 corresponding to the old survey No.571/A.

9. It is the case of the Petitioner that in the acquisition proceedings, Vithal Balkrishna Shikhare (original Mortgagee) relied upon the Mortgage Deed dated 6th July 1938 and filed his objections and claimed to be the owner of Survey No.571/A. Mr.Abdul Karim Suleman Shaikh also preferred his objections claiming that he had purchased the suit property by Sale Deed dated 9th February 1970. His statements were recorded on 12th June 1974.

10. According to the Petitioner, the said Mr.Abdul Karim Suleman Shaikh claimed ownership and possession over the land. It came to the notice of the Special Land Acquisition Officer (SLAO) that a Civil Suit in respect of the property was already pending before the Civil Court, Karad. The possession of the writ property was taken over for public purpose i.e. for improvement of Pune-Bangalore Road, N.H.4 by award dated 10th August 1977. The said award has not been challenged by any of the parties till date.

11. A reference under Section 30 of the Land Acquisition Act, was made. It is the case of the Petitioner that compensation was never awarded to the original owner. Mr.Vithal Balkrishna Shikhare who claimed to be the original owner passed away during the pendency of the suit as well as the land acquisition proceedings. In the award dated 10th August 1977, the amount of compensation in

respect of the writ property admeasuring 26R was fixed at Rs.8580 with 15% solatium of Rs.1287 i.e. a total of Rs.9867/-. In the said award dated 10th August 1977, it was observed that there is a serious dispute as to the title of the writ property and thus the amount of compensation shall be credited to the Civil Court and the matter of apportionment shall be dealt with by the Civil Court in terms of Section 30 of the Land Acquisition Act, 1894. The said amount was accordingly deposited by the SLAO.

12. It is the case of the Petitioner that in the Civil Suit No.162 of 1973, learned Trial Judge passed a decree holding that the Plaintiff Mr. Vithal Shikhare was not entitled to possession but was entitled to compensation. The Learned Trial Court passed a preliminary decree and directed the Plaintiff i.e. Mr. Vithal Shikhare to deposit the mortgage amount in Court. According to the Petitioner, no mortgage amount was deposited by Mr.Vithal Balkrishna Shikhare. No final decree was accordingly issued by the Trial Court. Mr.Abdul Karim Suleman Shaikh preferred an appeal bearing No.449 of 1990 against the said judgment dated 16 January 1985 passed in Civil Suit No.162 of 1973 making legal heirs of Mr.Vithal Balkrishna Shikhare parties therein.

13. It is the case of the Petitioner that no execution proceedings in respect of the final decree has been initiated by Mr.Vithal Balkrishna Shikhare in respect of his share. It is the case of the Petitioner that the said Mr.Abdul Karim Suleman Shaikh on 21st April 2006 bequeathed the writ property in favour of the Petitioner by oral hiba-nama. The said Mr.Abdul Karim Suleman Shaikh expired on 28 December 2007.

14. The Petitioner through its advocate's letter dated 14th July 2022 requested the Respondent No.2 to determine the market value as per Section 27 of the Fair Compensation Act and after calculating the market value to disburse the

compensation with 12% interest under Section 30(3) of the Fair Compensation Act.

15. It is the case of the petitioner that as per Mohemaddan Law, vide Section 190, a Muslim can only bequeath 1/3rd of his property by Will. Mr.Abdul Karim Suleman Shaikh has bequeathed entire survey No.571/A in favour of the Petitioner. The appeal filed by Mr.Abdul Karim Suleman Shaikh bearing R.C.A. No.449 of 1990 came to be dismissed without examining witnesses or on merit. The Review Appeal R.C.A. No.46 of 2000 was disposed off without substituting the legal heirs of Mr.Abdul Karim Suleman Shaikh on 27 September 2010. On 14 July 2022, the Petitioner filed a writ petition bearing No.15511 of 2022 for various reliefs.

Facts and Submissions in Writ Petition No.2570 of 2022 :-

16. It is the case of the petitioner that though the SLAO determined the amount of compensation which was to be credited to the Civil Court Deposit, the issue of apportionment under Section 30 of the Land Acquisition Act, 1894 was to be referred to the Civil Court, which was not made by the SLAO. The proceedings under Section 30 of the Land Acquisition Act, 1894 remained inconclusive. According to the petitioner, the compensation awarded was never disbursed to the rightful owner i.e. the Petitioner herein. It is the case of the Petitioner that the order passed by the Civil Court in R.C.S. No.64 of 2019 dated 16th April 2019 shows that the dispute relating to the ownership of property has not reached finality. There is no final decision in respect of title of the writ property.

17. On 5th July 2021, the petitioner filed Writ Petition bearing No.2570 of 2021 inter alia praying for various reliefs.

18. Mr. Sanjay Jain, learned counsel for the Petitioner submits that the Petitioner in Writ Petition No. 15511/2022 is grandson of Abdul Karim Suleman Shaikh and claims interest and title in the acquired land based on the fact that the title and possessory right of the writ property had continued to remain with Mr. Abdul Karim Suleman Sheikh – predecessor in interest of the Petitioner since 9th February, 1970. It is submitted that the said entitlement of the grandfather of the petitioner has been transferred to the Petitioner on the basis of a 'Hiba-nama', which is not challenged by any of the parties till date.

19. It is submitted that the Hiba-nama has also been relied upon by the Civil Court in a Suit bearing R.C.S. No. 64/2019 filed by the current occupier of the land in question against an imposter who claimed to have title over the land based on a purported Will which was stated to be executed after the death of the predecessor in interest of the Petitioner. It is submitted that the original owner of the subject property was Vithal Balkrishna Shikhare who had by way of possessory mortgage, conveyed the properties under a registered Mortgage Deed dated 6 July, 1938. The mortgagee sold the rights by registered Sale Deed dated 9th February, 1970 to the predecessor in interest of the Petitioner. It is submitted that the Land Acquisition Officer, who passed the Award on 22nd June, 1981 has taken cognizance of this fact.

20. Learned counsel for the Petitioner relied upon the Award dated 22nd June, 1981 and observed that the ownership in respect of the land is disputed. There are claims and counter claims over compensation. One Civil Suit is already pending in the Court of law. Similarly there are claims due to tenancy rights also. He submitted that the matter was not referred to Civil Court under Section 30 and thus there is no adjudication of the rival claims of the parties on the apportionment of the compensation.

21. It is submitted by the learned counsel that Petitioner has locus to file the instant writ petition as the Petitioner is not a stranger and is the grandson of Abdul Karim Suleman Sheikh, who during his lifetime had transferred his right, interest and title in favour of the Petitioner herein by way of a 'Hiba-nama'. The name of the predecessor in interest of the Petitioner is featured in the award as well as in the revenue records and also in view of the fact that a registered Sale Deed was executed in favour of the predecessor in interest of the Petitioner.

22. Learned counsel for the Petitioner placed reliance on the Land Date statement dated 22 June, 1981 and submitted that it was clearly mentioned in the said statement that the compensation awarded by Shri S.B. Jadhav, Special Land Acquisition Officer, the name of persons interested in the land situated in Village Malakpur and the relevant portion of which shows the name of predecessor in interest of the Petitioner, whose payment is due under the award in respect of 7H-61-A. It is submitted that in spite of the Award passed by the Land Acquisition Officer on 22nd June, 1981, the amount of compensation deposited with the Civil Court for distribution has not been apportioned and paid to the owner.

23. It is submitted by the learned counsel for the Petitioner that the Land Acquisition Act, 1894 has been repealed by the Fair Compensation Act. He submitted that in this case admittedly the compensation has not been deposited in the account of the beneficiaries specified in the notification for acquisition under Section 4 of 1894 Act. Therefore, the beneficiaries shall be entitled to compensation in accordance with Section 24(2) of the Fair Compensation Act.

24. Learned counsel for the Petitioner placed reliance on the judgment delivered by a Constitutional Bench of the Supreme Court in case of **Indore Development Authority Vs. Manohar Lal & Ors. 2020 8 SCC 129** and submitted that since the amount of compensation has not been paid to the Petitioner prior to

1st January, 2014, though award was made earlier, amount of compensation has to be calculated in terms of the Fair Compensation Act.

25. Learned counsel for the Petitioner also placed reliance on the judgment of the Supreme Court in the case of **Delhi Administration Vs. Pawankumar and Ors. (2022) 7 SCC 470** and submitted that the plea of the Respondents that the compensation has been deposited and thus provisions of Fair Compensation Act would not apply and is contrary to the Judgment of the Supreme Court in case of **Delhi Administration and Ors. Vs. Pawan Kumar and Ors. (supra)**. He submitted that the compensation was not offered to the land owners and therefore, the deposit in the Court cannot be recorded as payment of compensation. He relied upon paragraph Nos. 8.1 and 8.2 of the said judgment.

26. Learned counsel for the Petitioner relied upon various paragraphs of the reference made under Section 30 of the Land Acquisition Act. He submitted that in this case, no reference under Section 30 of the Land Acquisition Act was made. No payment has been tendered by the Respondents. The Petitioner never refused to accept the compensation prior to 1 January, 2014. It is not the case of the Respondent that the amount in respect of majority shareholders has been deposited by the Collector.

27. Mr. Jain, learned counsel for the Petitioner took us through the affidavit in rejoinder and submitted that the proceedings under Section 4 of the Land Acquisition Act have already lapsed and even if there is any dispute about the title, such dispute in respect of the title is not decided. It is submitted that the Petitioner thus is entitled to seek higher compensation and the issue of apportionment can be considered under the Fair Compensation Act. He submitted that the Petitioner has not challenged the award or prayed for enhancement of compensation on the basis of the said Hiba-nama, though he is a grandson of the original owner.

28. Mr. Gokhale, learned AGP for the State, submitted that the lands admeasuring 14H 19 R were alleged to have been owned by Abdul Karim Suleman Sheikh. He submitted that the Petitioner is claiming right, title and interest in writ property on the basis of the said alleged Oral Gift Deed dated 21 April, 2006 alleged to be executed by Abdul Karim Suleman Sheikh in favour of the Petitioner. He submitted that on the basis of the said alleged Gift Deed, no cause of action would arise in favour of the Petitioner. He submitted that on 10th August, 1997 the writ property was acquired by Award, after following the requisite procedure under the provisions of the Land Acquisition Act for the project of Pune Bangalore Road.

29. It is submitted that the dispute had arisen between the original owner and 5/6 other persons in respect of the writ property. In support of his submission, he relied upon the letter dated 2 October, 1977 addressed by the Special Land Acquisition Officer to the District Judge. He also invited our attention to the reference made by the Special Land Acquisition Officer to the District Judge under Section 30 of the Land Acquisition Act. He submitted that the names of the persons shown as persons interested and nature of their respective interest is shown in the said reference made under Section 30 of the Land Acquisition Act.

30. It is submitted that the dispute is about the title in respect of the writ property, which is pending before the Civil Court and the rights of the Petitioner or Petitioner's predecessor are not crystallized. The Petitioner, therefore, has no locus to file this petition for impugning the award dated 10 August, 1997 made by the Land Acquisition Officer or to direct Respondent No.1 to pay enhanced compensation for acquisition contemplated in accordance with Section 27 and 30(3) of the Fair Compensation Act. Learned AGP distinguished the judgment of the Supreme Court in the case of **Indore Development Authority Vs. Manohar Lal & Ors.** (*supra*).

31. Learned AGP submitted that since the proceedings under Land Acquisition Act have been completed, the provisions of the Fair Compensation Act do not apply to the facts of this case. The Petitioner has not prayed for any declaration in respect of the acquisition proceedings. He submitted that since the land acquisition proceedings are started and being initiated under the provisions of the Land Acquisition Act, 1894, the proceedings continue under the provisions of the said Act in view of Section 24A and 24B. The acquisition proceedings have not lapsed. He submitted that since the compensation has already been determined and deposited by the Special Land Acquisition Officer much prior to 1st January, 2014, the Petitioner is not entitled to seek any enhancement of the claim awarded on that ground also.

Reasons and Conclusions

32. The question that arises for consideration of this Court is whether the Petitioner has locus to file these two petitions for seeking a writ of Mandamus against Respondent No.1 to pay enhanced compensation for acquisition contemplated according to Section 30 of the Land Acquisition Act r/w. Section 24(1) (2) of the Fair Compensation Act or not?

33. It is not in dispute that the acquisition proceedings were initiated for acquisition of the writ property under the provisions of the Land Acquisition Act, 1894. The Special Land Acquisition Officer – III made an Award on 26 March, 1977 in the said acquisition proceedings No.LAQ/G-III/SR-19. The said Award was also in respect of the land bearing No. 571/2/A Part admeasuring 0.26H. The Petitioner claimed certain rights in the writ property under Hiba-nama alleged to have been executed by Abdul Karim Suleman Sheikh dated 21 February, 2006 in respect of the undivided share and title on the land bearing No. Gat No.571/2/A admeasuring 14H (old Survey No. 571/1/A), which was much after the declaration of the Award by the Special Land Acquisition Officer dated 22 June, 1981. Admittedly, the said Abdul

Karim Suleman Sheikh did not challenge the said Award.

34. It is the case of the Petitioner himself that the said Abdul Karim Suleman Sheikh had preferred the Appeal bearing No. 449/1990 against the Judgment and Decree dated 16th January, 1985 passed in Suit No. 162/1973. The said Civil Suit No. 162/1973 was filed by Vithal Balkrishn Shikhre.

35. A perusal of the Award indicates that the said Vithal B. Shikhre had disputed the title of the said Mr. Abdul Karim Suleman Sheikh. The Special Land Acquisition Officer No. III made a reference on 2 November, 1997 to the District Judge, Satara under Section 30 of the Land Acquisition Act, 1894 in respect of the writ property. It is stated in the said reference that there is a dispute about apportionment of the compensation in respect of land. The compensation amount has been deposited with the State Bank of India, Branch Satara under the Major Head "Civil Court Deposit" in the name of the persons interested under the Kabjedar. one of the name mentioned was of the said Abdul Karim Suleman Sheikh.

36. It is further stated in the said reference that no claim has been made by any of the parties. It is stated in the Award that name of Abdul Karim Suleman Sheikh is mentioned only as *Kabjedar*. Shri Sheikh has stated that the land in question belonged to him and that the compensation amount for this land should be paid to him only. Smt. Vaijanta Khashaba Pawar had also claimed compensation for the said land. Shri Vithal Balkrishna Shikhare had also claimed that the said land originally belonged to him and that he had mortgaged the same to Shri Bhau Nagu Yedge and three others.

37. It is stated that Shri Abdul Karim Suleman Sheikh had purchased the right of mortgagees only on 9th February, 1970 and as such Shri Sheikh has no right to sell the land. He had also stated that the Civil Suit No. 162/1973, filed by him in

the Civil Court Karad is still pending and that the compensation amount may be paid to him only after deducting the amount of mortgage. In these circumstances, the compensation amount in respect of S.No. 571-A should be credited to Civil Court Deposit. It is submitted that the said compensation awarded in the acquisition award was deposited in the Civil Court Deposit by the Special Land Acquisition Officer and the matter was referred to the Civil Court under Section 30 of the Land Acquisition Act, 1894.

38. Learned counsel for the Petitioner could not dispute that the said Reference and it is common ground that the said Reference filed under Section 30 of the Land Acquisition Act, 1894 is pending. The parties claiming various rights in the land acquisition including the said Abdul Karim Sulman Sheikh are pending for adjudication in the said Reference under Section 30.

39. A perusal of the averments in the Petition clearly indicates that the suit for redemption was preferred by Vithal Balkrishna Shikhare before the Court of Joint Civil Judge, Junior Division, Karad being RCS Suit No. 162/1973. The said Abdul Karim Suleman Sheikh was Defendant No.20 in the said Suit. He was a sub-tenant of the suit property by way of registered Sale Deed executed on 9th September, 1970. The Special Land Acquisition Officer has made a reference in respect of some of the proceeding between the parties showing their rival claims in the title of the writ property. The Award made by the Special Land Acquisition Officer also observed that there were certain frivolous claims pending. There was a serious dispute in respect of land bearing Survey No. 589/1A/1.

40. It is the case of the Petitioner that the Learned Civil Judge, Junior Division, passed an ex-parte decree in the said Civil Suit No. 162/1973 against the said Mr. Abdul Karim Suleman Sheikh. The said Mr. Abdul Karim Suleman Sheikh thereafter preferred an Appeal bearing No. 449/90 against the said judgment and

order dated 16th January, 1995 passed by the Civil Court. The Petitioner has not disclosed about the outcome of the said Appeal preferred by Mr. Abdul Karim Suleman Sheikh. Admittedly, the Petitioner did not file any separate suit till date, inter alia, praying for a declaration that the Petitioner has right, title or interest in the writ property and thus, is entitled to make an application for enhancement of the compensation under the provisions of the Fair Compensation Act.

41. In our view, since the title of the said Mr. Abdul Karim Suleman Sheikh itself is in dispute and is pending for adjudication, Petitioner does not have any locus at all for seeking enhancement of such claim by filing this Petition. The Petitioner cannot have rights better than Mr. Abdul Karim Suleman Sheikh.

42. Learned counsel for the Petitioner disputes that certain amount of compensation has already been deposited by the Special Land Acquisition officer in view of the dispute between the parties making their rival claims in the writ property. Admittedly the Award was also made under the provisions of Section 11 of the Land Acquisition Act, 1894. The Reference was also made prior to 1st January, 2014. Section 24 of the Fair Compensation Act thus would not apply.

43. Section 24 of the Fair Compensation Act clearly provides that in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where no award under Section 11 of the Land Acquisition Act has been made, then all provisions of the Fair Compensation Act relating to the determination of compensation shall apply or where the an award under said Section 11 has been made, then such proceedings shall continue under the provisions of the Land Acquisition Act, 1894, as if it has not been repealed. Admittedly, the entire acquisition proceedings have already been culminated into an Award under the provisions of the Land Acquisition Act and therefore the provisions under Fair Compensation Act would not apply. The Petitioner, thus, cannot seek any relief under the Fair

Compensation Act or otherwise in view of Section 24(1) (b) of the Fair Compensation Act.

44. There is no substance in the submission made by the learned counsel for the Petitioner that the said Reference under Section 30 already made, can be heard by the Competent Authority under Section 24 of the Fair Compensation Act. The submission of the Petitioner is totally contrary to Section 24(1) (b) of the Fair Compensation Act.

45. In so far as the Judgment of the Supreme Court in the case of **Indore Development Authority Vs. Manohar Lal & Ors. (supra)**, relied upon by the Learned Counsel for the Petitioner is concerned, the said judgment would not support the case of the Petitioner. In the said judgment, it is held by the Hon'ble Supreme Court that if Award is not made as on 1 January, 2014, i.e. on the date of commencement of the Fair Compensation Act, 2013, there is no lapse of proceedings. The compensation has to be determined under the provisions of the Fair Compensation Act. In the present case, the Award was made much prior to the commencement of the Fair Compensation Act and thus, the said judgment would not advance the case of the Petitioner.

46. So far as the judgment of the Supreme Court in the case of **Delhi Administration and Ors. Vs. Pawan Kumar and Ors.** (supra.) relied upon by the Petitioner, is concerned, the said judgment also would not advance the case of the Petitioner. None of the parties to the Reference under Section 30 of the Land Acquisition Act, made any claim for recovery of the compensation. The compensation was accordingly deposited in the Court. It is not the case of the Petitioner that the compensation was not offered to the predecessor of the Petitioner. The said judgment also does not assist the case of the Petitioner.

47. So far as Writ Petition No.2570 of 2022 is concerned, the Petitioner has prayed for a *Writ of Mandamus* against Respondent No.1 to refer the matter for apportionment to the Civil Court as per the provisions contained under the provisions of Land Acquisition Act, 1894 read with Section 24(1) and (2) of the Fair Compensation Act. The Reference under Section 30 of the Land Acquisition Act, 1894 is already made by the Special Land Acquisition Officer and the said Reference is still pending. Since the provisions of Fair Compensation Act do not apply, so far as the acquisition proceedings in question are concerned, there is no question of issuing any direction to Respondent No.1 to make a reference under the provisions of the Fair Compensation Act.

48. Therefore, we pass the following order:

ORDER

- (a) Writ Petition No. 15511 of 2022 and Writ Petition No.2570 of 2022 are dismissed.
- (b) There shall be no order as to costs.
- (c) Parties to act on an authenticated copy of this judgment.

(M.M. SATHAYE, J.)

(R.D.DHANUKA, J.)

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