

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 910 OF 2021 WITH WRIT PETITION NO.915 OF 2021

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WRIT PETITION NO.910 OF 2021

1. Babuji Ramaji Gawali, **..PETITIONERS**
Aged Major: Occ. Agriculturist.
2. Narayan Chipu Korku,
Aged Major: Occ. Agriculturist.
3. Sakharam Bhau Korku,
Aged Major: Occ. Agriculturist.
4. Ramu Faltu Korku,
Aged Major: Occ. Agriculturist.
5. Kalu Faltu Korku,
Aged major: Occ. Agriculturist.
6. Buda Faltu Korku,
Aged Major: Occ. Agriculturist.
7. Omkar Zaparya Korku,
Aged Major: Occ. Agriculturist.
8. Shankar Totaram,
Aged major: Occ. Agriculturist.
9. Amarlal Sukhlal
Aged Major: Occ. Agriculturist.
10. Chogalal Babu Dhande,
Aged Major: Occ. Agriculturist.
11. Bhaulal Babu Dhande,
Aged Major: Occ. Agriculturist.
12. Bansilal Shalikram Shelukar
Aged Major: Occ. Agriculturist.

13. Munshi Batu Kasdekar,
Aged Major: Occ. Agriculturist.
14. Hira Batu Kasdekar,
Aged Major: Occ. Agriculturist.
15. Rajaram Batu Kasdkar,
Aged Major: Occ. Agriculturist.
16. Babuji Ramji Gawali,
Aged Major: Occ. Agriculturist.
17. Mahadeo Kusnaji Gawali,
Aged Major: Occ. Agriculturist.
18. Sonu Nathuji Gawali,
Aged Major: Occ. Agriculturist.
19. Ganguji Bhikaji Gawali,
Aged Major: Occ. Agriculturist.
20. Ladkibai Motiram Korku,
Aged Major: Occ. Agriculturist.
21. Bansilal Shalakram,
Aged Major: Occ. Agriculturist.
22. Jau Gangaram,
Aged Major: Occ. Agriculturist.
23. Ramlal Rajaram Korku,
Aged Major: Occ. Agriculturist.
24. Gitay Shamlal Dahikar,
Aged Major: Occ. Agriculturist.
25. Bapurao Gotu Korku,
Aged Major: Occ. Agriculturist.
26. Dayaram Babu Dhande,
Aged Major: Occ. Agriculturist.

27. Laxman Bhau Darasibe,
Aged Major: Occ. Agriculturist.
28. Shekhlal Dadu Darshimbe,
Aged Major: Occ. Agriculturist.
29. Kalya Dadu Darshimbe,
Aged Major: Occ. Agriculturist.
30. Chotelal Dadu Darshimbe,
Aged Major: Occ. Agriculturist.
31. Rambhau Dadu Darshimbe,
Aged Major: Occ. Agriculturist.
32. Ramsingh Batu Kasdekar,
Aged Major: Occ. Agriculturist.
33. Sakaram Kalu Korku,
Aged Major: Occ. Agriculturist.
34. Ramlal Kalu Korku,
Aged Major: Occ. Agriculturist.
35. Omkar Mhating Sawalkar,
Aged Major: Occ. Agriculturist.
36. Sanu Mhating Sawalkar,
Aged major: Occ. Agriculturist.
37. Buda Mhating Sawalkar,
Aged Major: Occ. Agriculturist.
38. Bapurao Mhating Sawalkar,
Aged Major: Occ. Agriculturist.
39. Zapari Gunu Korku,
Aged major: Occ. Agriculturist.

All R/o. Gadgamalur, Tq. Dharni,
District Amravati.

Versus

1. State of Maharashtra,
through Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-400 032. **..RESPONDENTS**
2. Collector, Amravati.
3. Sub Divisional Officer and Land
Acquisition Officer, Dharni,
Tq. Dharni, District Amravati.

With
WRIT PETITION NO. 915 OF 2021.

1. Dholya Gangaram Jawarkar,
Aged Major: Occ. Agriculturist. **..PETITIONERS**
2. Medhai Gangaram
Aged Major: Occ. Agriculturist.
3. Bansi Buda Kasdekar
Aged Major: Occ. Agriculturist.
4. Ramchandra Bhumka,
Aged Major: Occ. Agriculturist.
5. Shankar Sanu Jawarkar,
Aged Major: Occ. Agriculturist.

All R/o. Bijudhawdi Tq.Dharni,
District Amravati.

Versus

1. State of Maharashtra,
through Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-400 032. **..RESPONDENTS**
2. Collector, Amravati.
3. Sub Divisional Officer and Land
Acquisition Officer, Dharni,
Tq. Dharni, District Amravati.

Shri Vipul B. Bhise, Advocate for petitioners in both writ petitions
Ms S.S.Jachak, Assistant Government Pleaders for respondents in both writ
petitions.

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 8th AUGUST, 2023.

ORAL JUDGMENT (Per A.S.CHANDURKAR, J.)

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The lands of the petitioners came to be acquired under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short, the Act of 2013) by passing award on 09.01.2017. Multiplier factor applied for the lands situated at village Gadgamlur Tq. Dharni, District Amravati was 1.50 under the said award. The petitioners seek modification of the said award by applying multiplier factor 2.00 instead of multiplier factor 1.50. Since the petitioners submit that they are satisfied with the compensation awarded for the acquisition of their lands and do not seek enhancement of that amount but restrict their claim only to applying the correct multiplier factor, we have entertained the writ petitions.

3. By following the procedure prescribed under the Act of 2013 the lands of the petitioners, most of whom are tribals came to be acquired under an irrigation project at the behest of the respondent no.1. While applying

multiplier factor, the Land Acquisition Officer has referred to Government Notification dated 26.05.2015 and has applied the multiplier factor 1.50. As per the said Notification, rural areas excluding the areas mentioned in Entries 1 and 2 thereof were entitled to a multiplier factor of 2.00. Entry no.1 relates to areas of Municipal Corporations, Areas of Class A, B and C Municipal Councils, Industrial Townships and Special Planning Authorities. Entry no.2 relates to areas covered by Regional Plans for Districts as well as by the Development Plan for non-Municipal Council areas. The petitioners seek to rely upon Entry no.3 by contending that their lands are in rural areas not falling in Entry nos. 1 and 2.

4. Shri V.B.Bhise, learned counsel for the petitioners in both the writ petitions submitted that Entry no.3 of the Notification dated 26.05.2015 was clear and the petitioners were entitled to compensation by applying the multiplier factor 2.00. According to him Entry nos. 1 and 2 were not applicable as the acquired lands were located in a hilly and tribal area. Referring to the decision in *Panjabrao s/o Ganpatrao Borade vs. State of Maharashtra and others [2015(6) Mh. L. J. 69]* it was submitted that the petitioners could not be deprived of fair compensation by applying a wrong multiplier factor. In the said decision this Court had directed fixation of proper multiplier factor in exercise of writ jurisdiction. He also referred to the judgment of the Gujrat High Court in *Dhiraj Ambalal Patel vs. State of*

Gujrat [(2020)1 GLR 752] to submit that similar course was followed in the aforesaid decision. It was further submitted that since the lands were acquired for public purpose, it was incumbent upon the concerned authorities including the Land Acquisition Officer to strictly comply with the relevant statutory provisions being the Act of 2013 as held in *Raghubir Singh Sehrawat vs. State of Haryana and others [2012(3)Mh.L.J.81]*. The learned counsel further submitted that the Notification dated 24.11.2017 was not applicable in the facts of the present case and reference thereto made by the respondents for denying fair compensation was unjustified.

5. Ms S.S.Jachak, learned Assistant Government Pleader for the respondents relied upon the affidavit-in-reply and submitted that a multiplier factor 1.50 was rightly applied. By a subsequent Notification dated 08.08.2018 it has been clarified by the Revenue and Forest Department that if the multiplier factor 2.00 was made applicable, it should be only with regard to awards passed thereafter. Any award passed prior to 08.08.2018 could not be modified on that basis. The reliance was placed on the judgment of the Andhra Pradesh High Court in *Kasiraju Seetharamaiah and others vs. Union of India and others [2019 LawSuit (AP) 143]*. It was thus submitted that the petitioners could avail the remedy under Section 64 of the Act of 2013 to seek enhanced compensation and the writ petition was not liable to be entertained.

6. We have heard the learned counsel for the parties at length and we have perused the documentary material on record. Insofar as the contention raised by the learned Assistant Government Pleader of requiring the petitioners to avail the remedy under Section 64 of the Act of 2013 for seeking enhanced compensation, we may state that the petitioners have categorically stated that they do not seek enhancement in the amount of compensation awarded as regards valuation of their lands and trees standing thereon. The petitioners merely seek application of the correct multiplier factor while paying the amount of compensation. According to them, the Land Acquisition Officer has applied the multiplier factor 1.50 instead of 2.00 despite the fact that the lands acquired are in remote rural areas and fall within Entry no.3 of the Government Notification dated 26.05.2015.

We find that the only question is to be considered is to the applicability of the correct multiplier factor in the award dated 09.01.2017. There are no disputed questions involved and the petitioners do not seek any enhancement in the amount of compensation with regard to the value of the lands acquired and trees standing thereon as has been determined by the Land Acquisition Officer. The lands of the petitioners are located in a remote tribal belt which is a rural area. In these facts, we do not find that the objection based on availability of an alternate remedy deserves to be upheld as a ground to preclude the Court from entertaining the writ petitions.

7. As per Notification dated 26.06.2015 the multiplier factor 2.00 is applicable to rural areas excluding the areas in Entry nos. 1 and 2. It is an admitted position that the lands do not fall within the purview of any Municipal Corporation or Municipal Council. The said lands are also not covered by any Development Plan prepared in accordance with the Maharashtra Regional and Town Planning Act, 1966. On the contrary, in the award itself it has been stated that by virtue of the acquisition of the said lands, the benefit of irrigation would be received by occupants of tribal and hilly areas in the vicinity and the standard of living of tribals residing in the vicinity would be enhanced. The award also recites that no a single sale transaction was available for determining the market value on the basis of execution of sale deeds in the vicinity of the lands. The award thereafter proceeds to apply multiplier factor 1.50 as per the Notification dated 26.05.2015. In the light of these facts we have examined the claim of the petitioners on merits.

8. Except for opposing the prayers in the writ petition on the ground of availability of an alternate remedy, there is no other material on record to indicate that multiplier factor 1.50 has been properly applied. The manner in which such factor has been applied has not been indicated. Reliance is placed on a communication dated 08.08.2018 which states that multiplier factor 2.00 was being made applicable to certain Municipal Corporations, Nagar Panchayats in the State. The said factor was to be made applicable to

awards passed after the dates mentioned therein. For said reason multiplier factor 2.00 could not be applied as the award was passed on 09.01.2017 which was prior to cut off date. We find that reliance placed on the communication dated 08.08.2018 is misplaced since the lands acquired clearly fall in Entry no.3 of the Notification dated 26.05.2015. There is no question of communication dated 08.08.2018 being made applicable to the facts of the present case or for that matter the Notification dated 24.04.2017. Similar course of applying proper multiplier has been followed in *Panjabrao Ganpatrao Borade* (supra). This decision has been thereafter followed by Gujrat High Court in *Dhiraj Ambalal Patel* (supra). In *Kasiraju Seethramaiah* (supra) relied upon by the learned Assistant Government Pleader the remedy of invoking jurisdiction under Section 64 of the Act of 2013 has been directed. We are however not persuaded to apply the ratio of the aforesaid decision. In the said decision the benefit of difference in multiplier factor was sought to be claimed by relying upon a memorandum and the Court held that on the basis of such memorandum, the multiplier factor could not be applied.

9. For aforesaid reasons, the following order is passed:

(i) The final award dated 09.01.2017 is modified by applying the multiplier factor 2.00 instead of 1.50. The petitioners are entitled to benefit of multiplier factor 2.00 and they are entitled to receive compensation under

the award dated 09.01.2017 on that basis.

(ii) The statement made on behalf of the petitioners that they are satisfied with the value of the lands acquired as well as trees standing thereon as determined in the award and they would not invoke remedy under Section 64 of the Act of 2013 is accepted. The statement would bind the petitioners herein.

(iii) The respondent nos. 2 and 3 to take all consequential steps flowing from the applicability of multiplier factor 2.00 and disburse the amount of compensation in accordance with the Act of 2013. Steps in that regard be taken within a period of four months of receiving the copy of the judgment.

(iv) Rule is made absolute in aforesaid terms with no order as to costs.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar..