

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 1464 OF 2021

Roshan Bharatsingh Thakur and anr__ Vs. __ State of Maharashtra and ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. G.N.Khanzode,, Advocate for Petitioner
Ms. T.Khan, AGP for respondent nos. 1 to 5
Ms. Kirti Satpute, Advocate for respondent no.6

CORAM : AVINASH G. GHAROTE, J.
DATE : 02/03/2023

1] The petitioners are the owners of land admeasuring 0.69 HR, having purchased the same by the sale deed from the mother and sister of respondent No.6. In RCS No. 333/1982, to which the present petitioner was the party, the sale deed dated 29.6.1982 in favour of the petitioners was under challenge. By a judgment and decree dated 8.10.1985, it was held that respondent no.6 had 1/3rd share. The decree has attained the finally, as challenge thereto has failed.

2] In proceedings under Section 54 of the C.P.C., the learned Tahsildar found that 1/3rd share of the respondent no.6 would come to 0.23 HR and therefore would be a fragment, in view of which and in light of the provisions of Section 8AA of the Prevention of Fragmentation and Consolidation of Holdings Act, the learned SDO directed the compensation to be

determined, challenge against which was rejected. In pursuance to this, by the impugned order dated 13.11.2017 (pg.45), the compensation payable to the respondent no.6 in regard to her share has been determined.

3] The only ground raised is that the compensation could not have been determined on the basis of the provisions of Section 23 of the Land Acquisition Act. Such a challenge is clearly not maintainable in light of provisions of Section 8AA (2)(a) of the Maharashtra Prevention of Fragmentation and Conciliation of Holdings Act, which specifically mandates that for the purpose of determining the compensation in respect of a fragment, the same has to be done under the provisions of Section 23 of the Land Acquisition Act.

4] That being the position, I do not see any reason to interfere in the impugned order. The petition is dismissed. No costs.

JUDGE

Rvjalit