



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

WRIT PETITION NO. 2612 OF 2022

(MANDABAI VASUDEO CHINCHOLKAR & ANR ..VS.. SPECIAL LAND ACQUISITION OFFICER, DY.
COLLECTOR & OTH.)

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

Court's or Judge's orders

Shri K.S.Narwade, Advocate for Petitioners.
Ms M.A.Barabde, A.G.P. for Respondent No.1.
Shri M.G.Sarda, Advocate for Respondent Nos.2 to 5.
Shri H.R.Gadhia, Advocate for Respondent Nos.7 & 8.

CORAM : ANIL S. KILOR, J.
DATED : AUGUST 21, 2023.

1. Heard.
2. The land in question i.e. Gut No.2 of Mouza :
Hingna Balapur, Tahsil : Jalgaon Jamod, District :
Buldhana was acquired for Jigaon Irrigation Project.
3. Thereupon, the respondent Nos.7 and 8 on
19/03/2021 filed an application before the Collector
claiming compensation to the extent of 1.20 HR land out
of 2.93 HR land.
4. It appears from the order-sheet and Roznama
that the petitioners have not raised any objection as
regards payment of compensation to the extent of 1.20
HR land to the respondent Nos. 7 and 8.

5. However, after receiving copy of the order dated 20/04/2022, which is impugned in the present petition, it was noticed by the petitioners that, the compensation as regards remaining land excluding 1.20 HR land of which the compensation was claimed by the respondent Nos.7 and 8, on the basis of the Will Deed dated 23/05/2018 executed by Shri Haribhau Fakira Kaldade it was held that respondent Nos.2 to 5 are entitled for the amount.

6. It is the case of the petitioners that the Will Deed was never produced or brought to the notice of the petitioners and thereby no opportunity was given to the petitioners to raise any dispute about the same. It is submitted that if such opportunity had given, the Collector would have in a position to take decision considering the dispute about the compensation, whether to make a reference to the learned District Judge. However, as no such opportunity was given, the petitioners have been deprived of their right to claim compensation as regards Gut No.2.

7. The learned counsel for the respondent Nos. 7 and 8 is not disputing that there was no mention in their application about any such Will.

8. Similarly, the learned counsel for the respondent Nos.2 to 5 is also not disputing that in Roznama there is

any mention about filing of copy of the Will Deed on record by the respondent Nos. 2 to 5.

9. Thus, it is apparent on the face of the order and the record that without giving any opportunity to the petitioners to submit their say in respect of the Will Deed, the Collector decided to disburse the amount in favour of the respondent Nos.2 to 5 on relying upon the said Will Deed.

10. In that view of the matter, I am of the opinion that the present matter needs to be remanded back to the Collector to take a decision afresh about disbursement of the amount if there is no dispute and if he finds that there is any dispute he may make a reference as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Accordingly, I pass the following order:

- i) The Writ Petition is partly allowed.
- ii) The impugned order dated 20/04/2022 passed by Deputy Collector and Land Acquisition Officer (Minor Project), Buldhana is hereby quashed and set aside.
- iii) The matter is remanded back to the Deputy Collector/ Land Acquisition Officer (Minor Project), Buldnana to take a decision afresh.

- iv) The amount, if not already disbursed, shall not be disbursed till the decision by the Collector and if it has already been disbursed in favour of the respondent Nos. 2 to 5 and 7 to 8, necessary undertakings be obtained from them that in case they fail in the present matter, they shall refund the amount to the extent the petitioners' entitlement.
- v) The parties shall appear before the Deputy Collector, Buldhana on 01/09/2023 at 12:00 noon.

The Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE