

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

WRIT PETITION NO. 1144 OF 2020

Amended
as per
Court's
order dtd.
21.02.2023

- (1) Vasanta Dadaji Niwal,
Aged about 71 years,
Occ. Agriculturist,
R/o. Selukate, Post. Selukate,
Tah. & Distt. Wardha.
- (2) Dilip Ramdas Kamble (Dead)
through LRs.
- (2-a) Manjusha Wd/o Dilip Kamble,
Aged about 41 years, Occ. Household,
- (2-b) Purval D/o Diliprao Kamble,
Aged about 21 years, Occ. Education
- (2-c) Prajwal S/o Dilip Kamble,
Aged 19 years, Occ. Education
All R/o. Seloo Kate, Tah. & Distt.
Wardha.
- (3) Smt. Kuntabai Dadaji Bardamwar,
Aged 74 years, Occ. Agriculturist,
R/o. Selukate, Post. Selukate,
Tah. & Distt. Wardha.

..... **Petitioners**

...Versus...

- (1) State of Maharashtra,
through District Collector,
Wardha.
- (2) Deputy Collector, Wardha,
District Wardha.
- (3) Van Project Division, through
its Executive Engineer,
Wardha, District Wardha.

(4) District Rehabilitation Officer
through Executive Engineer,
Van Project Department, Wardha,
Tah. & Distt. Wardha.

(5) Vidarbha Irrigation Department,
Nagpur.

..... **Respondents**

Mr. S. D. Chande with Ms. S. S. Kulkarni, Advocates for the petitioners
Smt. K. S. Joshi, Addl. G. P. for respondents 1 to 4

CORAM : ROHIT B. DEO AND M. W. CHANDWANI, JJ.

DATE : 7-7-2023

ORAL JUDGMENT : (PER ROHIT B. DEO, J.)

Rule. Rule made returnable forthwith. With consent,
heard finally.

2. The petitioners executed sale deed dated 17-6-2016 in
favour of the Vidarbha Irrigation Development Corporation
(VIDC) where under Agricultural Field Gat 29 was transferred in
favour of the VIDC.

3. The petitioners claim that the adjoining owner
receives more compensation. The petitioners claim to have
submitted representation dated 17-10-2018 to the Collector
seeking compensation at par with the consideration of the sale
deed executed by the other land owner. The petitioners further

claim to have followed up on the representation supra by addressing communication dated 24-5-2019 to the respondents.

4. The petitioners claim that the representation came to be rejected by the Executive Engineer, Lower Wardha Canal Division, Wardha Project and Rehabilitation Division vide reply dated 12-9-2019. The reply communication invites attention of the petitioner to the fact that the consideration was bilaterally and consensually agreed and, therefore, cannot be enhanced. These are the broad facts on the basis of which relief is sought.

5. The submission of the learned counsel Mr. Chande is that although the petitioners executed sale deed in favour of the VIDC, the sale deed is required to be treated as an award of compulsory acquisition. Mr. Chande invites our attention to the judgment of the Kerala High Court in the case of *State of Kerala represented by the Secretary to Government, Revenue Department and anr. Vs. Mathew K. X. and anr. [2021 AIR CC 861]*. In the context of the submission canvassed, the factual matrix in **Mathew K. X.** (supra) may be noted.

The subject agreements were executed between the land

owners and the District Collector, Ernakulam. One essential condition was that the land shall be surrendered in terms of sale deed dated 22-3-1984, 50% of the amount was paid by the Kerala Government and the balance amount was to be paid in accordance with the agreement dated 22-9-2016. The said agreement stipulated that while redetermining the value of the land under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act of 2013), the land owners shall be entitled to further compensation or package, if offered by the Kerala Government over and above the agreed compensation. It is in the context of the said condition that the learned Single Judge held that the applications preferred by the land owners be referred in terms of Section 64 of the Act of 2013. The judgment of the learned Single Judge was carried in writ appeal. The Division Bench of the Kerala High Court considered the provisions of Sections 26 to 30 and 64 and 66 of the Act of 2013. The Division Bench co-related with statutory provisions with the specific terms of the agreement and held that in as much as the determination of the compensation was in terms of the provisions

of the Act of 2013 and the conditions stipulated in the agreement, the land owners are entitled to enforce the contractual term that the compensation be redetermined in terms of the Act of 2013, and therefore, the learned Single Judge committed no error in issuing the direction that the claim of the land owners to enhance compensation be referred. Interestingly, in the case which is decided by the Kerala High Court, it was the District Collector, who turned around and questioned the agreement which provided that the compensation shall be redetermined in accordance with the provisions of the Act of 2013.

6. The submission of Mr. Chande supra is presumably canvassed without noting the facts in the backdrop of which the Kerala High Court issued the direction that the dispute be referred under Section 64 of the Act of 2013.

7. We see no merit in the petition. The petition is dismissed.

(M. W. Chandwani, J.)

(Rohit B. Deo, J.)