



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

54 WRIT PETITION NO. 8198 OF 2024

**VISHWAS VASUDEO KULKARNI THROUGH AUTHORIZED
PERSON RAJENDRA GANPATI GAWHANE**

VERSUS

**THE STATE OF MAHARASHTRA THROUGH DISTRICT
COLLECTOR AND OTHERS**

....

Mr R. A. Deshmukh, Advocate for Petitioner

Mr N. S. Tekale, A.G.P. for Respondent Nos.1 & 2

CORAM : RAVINDRA V. GHUGE

AND

Y. G. KHOBRADE, JJ.

DATE : 5th August, 2024

PER COURT:

1. The Petitioner submits that, his claim under Section 28-A of the Land Acquisition Act, 1894 (for short 'the 1894 Act'), dated 01/10/2016, is pending since 2016. His Application was served upon the concerned Authorities.

2. Respondent No.3 / Executive Engineer, Minor Irrigation Division, Dharashiv, is said to be a formal party in this Writ Petition and no prayers are put forth as against Respondent

(2)

No.3. It is, therefore, submitted that, notice need not be issued to Respondent No.3.

3. The learned A.G.P. submits that, it will have to be ascertained, as to whether any First Appeal is pending as regards the final order passed under Section 18 of the 1894 Act. If such Appeal is pending, the Hon'ble Supreme Court has held in **Bharatsing s/o Gulabsingh Jakhad and others Vs. State of Maharashtra and others [(2018) 11 SCC 92]** and **Ramsingbhai (Ramsangbhai Jerambhai Vs. State of Gujarat and Anr., [AIR 2018 SC 2629] : [2018 (16) SCC 445]**, that, if a First Appeal is filed by the State Government as against the order passed under Section 18 of the 1894 Act, the proceedings under Section 28-A are to be kept in abeyance, until decision in the First Appeal.

4. In view of the above, **this Writ Petition is disposed off.** If no First Appeal is pending before the High Court, the proceedings initiated by the Petitioner, dated 01/10/2016, shall be decided by following the due procedure laid down in law, within a period of 120 days from today. Leave to the Authorities to ascertain, as to whether such application was factually filed or

(3)

not. In the event, the First Appeal is pending, the said proceedings under Section 28-A, shall be kept pending/in abeyance, until the decision of the High Court in the First Appeal.

5. In the event, the proceedings under Section 28-A of the 1894 Act, is finally adjudicated upon, the compensation payable, may be paid to the Petitioner in the same terms, in which, it has been paid to all other identically situated claimants who had preferred proceedings under Section 18.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

sjk