



This order is corrected vide speaking to the minutes order dated 30th July, 2024.

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

WRIT PETITION NO.4004 OF 2023

The Maharashtra Krishi Valley Development Corporation
Through Executive Engineer

VERSUS

Ramchandra Mahadev Ghogare And Others

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Advocate for the Petitioner : Mr. A.M. Gaikwad

AGP for Respondents 21,22 : Mr. K B Jadhavar

Advocate for Respondents 1-20 : Mr. A.S. More

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : July 02, 2024

PER COURT :-

1. The petitioner/acquiring body assails the order dated 8.5.2018 passed by the Respondent No.21-Collector, Osmanabad, Tq. & District Osmanabad passed under section 28-A of the Land Acquisition Act (for short the Act).

2. Mr. Gaikwad, learned advocate appearing for the petitioner submits that acquisition proceedings for construction of Sina Kolegaon Project was initiated by issuing notification under section 4 of the Act dated 24.2.2000. The Special Land acquisition Officer had passed the award under section 11 of the Act. Some of the land holders approached the Reference Court seeking

enhancement of the compensation under section 18 of the Land Acquisition Act. Accordingly, in LAR No.386 of 2012 the Award of enhanced compensation has been passed. Respondent nos.1 to 20 relying upon such award filed application under section 28A of the Act seeking compensation as per rate fixed by the Reference Court. Respondent no.21/Collector without issuing notice to the petitioner/acquiring body allowed the application and passed the award of enhanced compensation under section 28-A of the Act. According to Mr. Gaikwad, such an award is not sustainable in law being contrary to principles of natural justice.

3. Mr. A.S. More, learned advocate appearing for respondents supports the award contending that issue as regards to value of the land is already settled by Award of Reference Court, in continuation of which proceeding under section 28A of the act was instituted. Accordingly, the impugned Award has been passed. So, no fault can be found in such order.

4. Having considered the submissions advanced, it is apparent that the application under section 28A of the Act was moved by the land holders, who could not approach the Reference Court under section 18 of the Act. In these circumstances, before passing any award, it was incumbent upon the respondent/Collector to issue notices to the acquiring body, who is ultimately responsible to

compensate the applicants. It would be therefore in the fitness of things to quash and set aside the impugned Award dated 8.5.2018 and direct the Collector to decide the proceedings under section 28-A after giving due opportunity of hearing to the petitioner/acquiring body. Accordingly, writ petition is allowed in terms of prayer clause 'B'. The petitioner shall appear before the Collector on 12th August, 2024. The Collector shall decide the application filed under section 28-A of the Act within a period of three (3) months thereafter. Writ petition stands disposed off. No costs.

(S. G. CHAPALGAONKAR)
JUDGE

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aaa/-