

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1810 OF 2024

M/s.Real Venture Investments LLP

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

**Mr.Anil Anturkar, Senior Advocate a/w Hitesh Vyas,
Swapnil Abhyankar i/b Sandeep Waghmare,** Advocates
for the Petitioner.

Mr.Vijay D. Patil, Advocate for Respondent No.4 MSRDC.

Mr.R.S.Pawar, AGP for State-Respondent Nos.1 to 3.

**CORAM :B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE : AUGUST 21, 2024

P. C.

1. The above Writ Petition is filed seeking an appropriate writ, order or direction under Article 226 of the Constitution of India to quash and set aside the impugned Award dated 6th October 2023 declared by Respondent No.3, in so far as the Petitioners land are concerned. The Petitioner's land are Survey Nos.295/1, 297, 298 and 299 admeasuring 26,932 sq. mtrs. of village Urvade, Taluka Mulshi, District Pune (for short "**the said land**").

2. The narrow issue in the above Writ Petition is the classification done of the said land for the said acquisition. According to the Petitioner, the said land has been classified as Agricultural/Jirayat land for the said acquisition, even though the said land, as per the official and revenue records, is Non Agricultural (N.A.) land. It is the case of the Petitioner that there is no order passed quashing the said NA order or reversing it. Therefore, the Respondents ought to have determine the market value of the said land by accepting its NA status. As this was not done, and the said land was wrongly treated as Agricultural/ Jirayat land, and a paltry amount has been granted as compensation, the impugned Award is challenged.

3. Mr. Anturkar, the learned senior counsel appearing on behalf of the Petitioner, submitted that initially the Petitioner approached the Government for acquiring the said land under the provisions of Section 19B(2) of the Maharashtra Highways Act, 1955 and which is acquisition by agreement. He submitted that in fact there is a Circular issued by the Government of Maharashtra that if acquisition is done by agreement, the compensation payable would be enhanced by 25%. In the facts of the present case, the Government, by classifying the

said land as Agricultural/Jirayat land has in fact, frustrated the acquisition by agreement and which is also why the impugned Award is challenged.

4. On the other hand, Mr.Patil, the learned counsel appearing on behalf of Respondent No.4, as well as the learned AGP appearing on behalf of Respondent Nos.1 to 3, submitted that in the facts of the present case, since the Petitioner was not agreeable to the classification of the said land as Agricultural/Jirayat land, and which according to the Government Authorities was as such, there was no agreement between the parties on the compensation payable to the Petitioners for acquisition of their land. Once this is the case, the provisions of Section 19B(2) became wholly inapplicable and therefore acquisition was thereafter proceeded with under the provisions of Section 19B(3) of the said Act. If the Petitioners are aggrieved by the quantum awarded under the Award by virtue of wrong classification of their land, the Petitioner has a remedy under Section 19B(8) of the said Act to seek enhancement of compensation. There is absolutely no need or requirement to interfere with the impugned Award, especially when no case is made out in the process adopted for passing the impugned Award, was the Submission.

5. We have heard the learned counsel for the parties. We have also perused the papers and proceedings in the above Writ Petition. Section 19B is the Section which stipulates the determination of the amount payable as compensation when any land is acquired by the State Government under the Maharashtra Highways Act, 1955. Section 19B(1) stipulates that where any land is acquired by the State Government under chapter III, there shall be paid an amount of compensation which shall be determined in accordance with Section 19B. Section 19B (2) provides a mechanism for acquisition by agreement. It stipulates that where compensation is determined by agreement between the State Government and the person to be compensated, it shall be determined in accordance with such agreement. Thereafter comes Section 19B(3). Section 19B(3) clearly states that where no agreement is reached as contemplated under Section 19B(2), the State Government shall refer the case to the Land Acquisition Officer for determination of the amount of compensation to be paid for such acquisition, as also the person or persons to whom such compensation shall be paid. The other Sub-Section which is relevant for our purposes is Sub-Section (8) of Section 19B. This Sub-Section stipulates that if the amount determined by the Land Acquisition Officer under Sub-Section (3) or Sub-Section (5) is not

acceptable to either of the parties, the amount shall, on an application by either of the parties, be determined by the Arbitrator to be appointed by the State Government. Sub-Section (9) of Section 19B also stipulates that subject to the provisions of the Maharashtra Highways Act, 1955, the provisions of the Arbitration and Conciliation Act, 1996 shall apply to every arbitration under the said Act.

6. In the facts of the present case, it is an admitted fact that there is no agreement between the parties as contemplated under 19B(2). It is for this very reason that Section 19B(3) was invoked and an Award has been passed by the Land Acquisition Authority and Sub Divisional Officer- Respondent No.3. The Petitioner, in the real sense, is aggrieved by the compensation awarded for acquisition of the said land primarily on the ground that the value of the said land has been determined on the basis that it is Agricultural/Jirayat land when in fact it is not so and the Government records itself reflect that it is Non Agricultural Land. This to our mind is a dispute which can certainly be determined by the Arbitrator under Section 19B(8) of the Maharashtra Highways Act, 1955. Once this is the case, we are of the view that there is no requirement to entertain the above Writ Petition and we dispose the same by granting liberty to the Petitioner to invoke arbitration as

per the provisions of Section 19B(8) of the Maharashtra Highways Act, 1955.

7. We may hasten to add that we have not opined on the merits of the matter and the Arbitrator appointed under Section 19B(8) shall decide the disputes between the parties on its own merits and in accordance with law.

8. The Writ Petition is disposed of in the aforesaid terms. However, there shall be no order as to costs.

9. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]