

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 16860 OF 2024

Dhulappa Appa Lad

...Petitioner

Versus

The State Of Maharashtra Throu. Addl

Chief Sec. Revenue And Forest Dept And Ors.

...Respondents

Mr. Yuvraj Gharal, for Petitioner.

Ms. M. S. Bane, AGP for State.

Mr. Sachin Gite for Respondent No.6.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATE: 21 NOVEMBER 2024

P.C.

1. We have heard Mr. Gharal, learned counsel for the petitioner. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:

“a. Rule be issued and record and proceedings be called for;

b. This Hon’ble Court be pleased to issue writ of mandamus or any other appropriate writ in the nature of writ of mandamus and be pleased to hold and declare that the Joint Measurement survey done on 07.09.2023 is illegal and perverse and also the order dated 24.11.2023 deserves to be quashed and set aside.

c. By a suitable Writ, Order or direction, this Hon’ble Court be pleased to direct the Respondents to a fresh survey as per Section 12 of the Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and include the House propertied bearing assessment No.672, Trees, Pipe line standing on the gat No. 82, which are affected by the said Distribution canal.”

2. As urged by Mr. Gharal, the primary grievance of the petitioner is that in regard to the petitioner’s land which was subject matter of acquisition and the

award dated 21 May 2024, the Competent Authority / Land Acquisition Officer has not taken into consideration the Crops, Pipeline and the constructions thereon. It is in such context, the petitioner's contentions is that the joint measurement survey which was undertaken prior to the award, deserves to be quashed and set aside.

3. We find from the record that this grievance was raised by the petitioner in which objection application dated 26 September 2023 was heard and decided by the sub Divisional Officer / Land Acquisition Officer by an order dated 24 November 2023 (page 74 of the paper book) where under, all such contentions of the petitioner were considered when the said authority has made the following observations on the petitioners objection:

“(Translation of Photocopy of a Portion, typewritten in Marathi.)
On perusing the reply submitted by you in writing, Inquiry Report submitted by the Executive Engineer, Medium Project Division No. 2, Kolhapur and also the Rectification Joint Survey Statement bearing No. Survey/ L. A./ Rectification/ W .S - 791/2023, dated 14.08.2023 submitted by the Deputy Superintendent, Land Records, Radhanagari, Taluka – Radhanagari, it is found that fruit bearing trees, fallow land having a well and pipe line located in Kandalgaon/ Mandavkarwadi have been included therein. Moreover, valuation in respect of the fruit bearing trees, getting affected has been made by the Taluka Agricultural Officer Radhanagari and he has submitted the same in his report.”

4. It appears that thereafter following the procedure under the Right To Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the land of the petitioner was acquired by the award in question. However, what is significant is that after such rejection of the petitioners objection application by award / order / communication dated 24

November 2023, the petitioner had not raised any grievance on such observations / findings as recorded by the Competent Authority.

5. Be that as it may, on a perusal of the award, it clearly appears that the petitioners land bears crops / trees, pipelines etc., has been taken into consideration in the award. In this view of the matter, the grievance of the petitioner appears to be clearly a grievance in regard to inadequate quantum of compensation being paid to the petitioner, in acquiring the petitioner's land. The remedy for the petitioner therefore necessarily is to invoke the jurisdiction of the Authority under Section 64 of the 2013 Act for enhancement of the compensation, as this would necessarily be a situation where the petitioner is the person who has not accepted the award. The reference to such authority under Section 64 would also take into its ambit, any objections as to the measurement of the land, the amount of compensation being payable and the rights of rehabilitation and resettlement if any.

6. In the aforesaid premises, we are not inclined to adjudicate the prayers as made in the petition.

7. The petition is disposed of keeping open all contentions of the petitioner to be asserted in Section 64 proceedings, if the petitioner intends to pursue.

8. Disposed of. No costs.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)