IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

CIVIL REVISION APPLICATION NO. 30 OF 2024

Shri Shekhar Vinayakrao Bhuyar,
Aged : 65 yrs, Occ: Retired,
R/o. Mahatma Phule Colony,
Rathi Nagar, Tq. and Dist. Amravati. .... APPLICANT

// V E R S U S //

1. **State of Maharashtra,**
Through Collector, Amravati,
Dist: Amravati

2. **Deputy Collector,**
(Land Acquisition Officer),
Benefit Zone No.2, U.W.P.
Collector Premises, Amravati,
Dist. Amravati

3. **Executive Engineer,**
Amravati Project Construction
Division, Dist. Amravati ... RESPONDENTS

AND

CIVIL REVISION APPLICATION (CRA) NO. 31 OF 2024

1. **Shri Prabhakar Shankarrao Patil,**
Aged about 70 yrs., Occ.: Agriculturist,
R/o. Panchkrushna Vatika, Dhawalsari,
Tq. Nandgaon Khandeshwar,
Dist. Amravati

2. **Shri Shekher Vinayakrao Bhuyar,**
Aged about 65 Yrs., Occ.: Retired,
R/o. Mahatma Phule Colony, Rathi
Nagar, Tq. And Dist. Amravati .... APPLICANTS

// V E R S U S //

1. **State of Maharashtra,**
Through Collector, Amravati,
Dist: Amravati

2. **Deputy Collector,**
(Land Acquisition Officer),
Benefit Zone No.2, U.W.P.
Collector Premises, Amravati,
Dist. Amravati

3. **Executive Engineer,**
Amravati Project Construction
Division, Dist. Amravati **... RESPONDENTS**

Mr Swapnil Shingane, Advocate for applicants in both revisions
Mr Mangesh Kadu, Advocate for respondent No.3 in both revisions
Ms Ritu Sharma, AGP for the respondent/State in WP No. 30 of 2024
Ms S. V. Kolhe, AGP for the respondent/State in WP No. 31 of 2024

CORAM : G. A. SANAP, J.
DATE : 26/07/2024

ORAL JUDGMENT :

1 Heard.

2 Both these revisions can be disposed of by common judgment since the issue for consideration is identical. The applicants have filed two separate first appeals, under Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (for short 'the Act of 2013') being aggrieved by the awards passed by the Authority. The impugned awards were passed on 03.05.2023 under Section 64 of the Act of 2013.

3 In the appeals, the clause with regard to the valuation of the appeals for court fees has been incorporated. The valuation of the appeals for the court fees was on the basis of the market value of the land determined under Section 26(1) of the Act of 2013 only. The office, therefore, raised the objection that the appellants/applicants would be required to pay the court fees on the amount of the market value of the land determined by the authority under Section 26 of the Act of 2013 in its entirety. The office was of the opinion that the amount calculated by applying the multiplier under Section 26(2) of the Act of 2013 could not be said to be a statutory benefit. Learned Registrar (Judicial) by his order dated 31.10.2023 referred the issue of the determination of the court fee to the Taxing officer of this Court.

4 Learned Taxing officer granted an opportunity of hearing to the Advocate for the appellants/applicants and passed the order on 01.12.2023. Learned Taxing Officer

recorded a finding that the amount awarded/determined under sub-section (2) of Section 26 of the Act of 2013 could not be said to be a statutory benefit. Learned Taxing Officer held that the amount determined under sub-sections (1) and (2) of Section 26 together would be the market value of the land as defined under Section 3 (u) of the Act of 2013. This order passed by the Taxing Officer is under challenge in these revisions.

5 I have heard the learned Advocate for the appellants/applicants, the learned AGP for respondent Nos. 1 & 2/State and learned Advocate for respondent No. 3. Learned AGP supported the order passed by the learned Taxing officer.

6 Learned Advocate for the applicants and learned Advocate for respondent No.3 submitted that the order passed by the learned Taxing officer holding that the market value of the land determined by the authority would be as per sub-

section (1) and the amount is granted under sub-section (2) would not be the statutory benefit. Learned Advocate for the applicants and learned Advocate for respondent No. 3 submitted that by applying the analogy of Section 23 of the Land Acquisition Act, 1894 the amount determined under sub-section (1) of Section 26 would be the market value of the land. Learned Advocates submitted that the amount of compensation determined by applying sub-section (2) of Section 26 would not be the market value of the land but a "statutory benefit".

7 It needs to be stated that this Act of 2013 is beneficial legislation. The object of this legislation is to pay just, proper and reasonable compensation in case of compulsory acquisition of the land by the State or the instrumentality of the state. The factors by which the market value is to be multiplied in case of rural and urban areas have been provided in the First Schedule of the Act of 2013.

8 As far as the application of multiplier is concerned, the officer determining the compensation or passing the award is required to decide the same depending upon the area where the land is situated. The main question before the Taxing Officer was as to whether the amount of compensation determined under sub-section (2) of Section 26 would be statutory benefit or not ? Learned Taxing Officer, after considering the provisions of Sections 26, 27, 30 and 69 and Section (3) (u) of the Act of 2013, has concluded that the amount of compensation determined under sub-sections (1) and (2) of Section 26 together would be the market value of the acquired land. It is held that the market value of the land calculated as per sub-section (1) of Section 26 has to be multiplied by a factor to be specified in the First Schedule.

9 Section 26 provides for the determination of the market value of the acquired land by the Collector. The market value of the land is determined under Section 26 by considering

variety of factors provided under Section 26. As per sub-section (2), one such factor is the multiplication of the market value calculated under sub-section (1) by the appropriate multiplier specified in the First Schedule. Section (3) clause (u) defines "market value". As per this definition, the market value means the value of the land determined in accordance with Section 26. The definition does not state that the market value means the value of the land determined under sub-section (1) of Section 26. As per this definition the market value of the land determined under this Act is the value of the land determined in accordance with Section 26. This definition, in my view, is very clear and unambiguous. It is, therefore, apparent that the market value of the acquired land will be the amount determined by invoking sub-sections (1) and (2) of Section 26 together.

10 It is necessary to state that the market value of the acquired land determined by applying sub-section (2) of

Section 26 of the Act of 2013 could not be said to be a statutory benefit. Section 27 of the Act of 2013 provides for the determination of the amount of compensation. It provides that the Collector, having determined the market value of the land to be acquired, shall calculate the total amount of compensation to be paid to the land owner by including all assets attached to the land. Section 30 of the Act of 2013 provides for the award of solatium and interest. Sub-section (1) of Section 30 states that the Collector, having determined total compensation to be paid, shall, to arrive at the final award impose a "solatium" amount equivalent to one hundred percent of the total compensation determined by the Collector. Sub-section (1) of Section 30 does not speak about the payment of solatium on the market value of the land only. It provides that solatium has to be paid on the amount of compensation. Sub-section (3) of Section 30 provides for payment of interest @ of 12% p.a. on the market value of the land determined under

Section 26 of the Act of 2013. Perusal of Section 30 would show that the amount paid under this section is a statutory benefit. The statutory benefits are awarded on the market value of the land determined under Section 26 of the Act of 2013. In my view, if the submissions of the learned Advocates are accepted, then it would prove detrimental to the land owner. The statutory benefits are payable on the market value of the land. If it is held that the amount determined under sub-section (1) of Section 26 alone would be the market value of the land, then in that event, the land owner may not be entitled to get the statutory benefits on the amount determined by invoking sub-section (2) of Section 26. It needs to be stated that the statutory benefits, provided under the law, including the benefits under Section 30, are awarded on the market value of the land determined under sub-sections (1) and (2) of Section 26. The land owner is entitled to get the statutory benefits on the market price of the land determined under sub-sections (1) and (2) of Section 26. Therefore, the amount awarded under sub-section (2) of Section 26 could not be said to be a statutory benefit. In my view, as far as the interpretation of the provisions of Section 26 and the definition of the market value of the land as defined under Section 3(u) of the Act of 2013 are concerned, there is no ambiguity.

11 In order to satisfy myself about the correct factual position, in this case, I have called the record and proceedings. Perusal of record would show that by invoking the multiplier of 1.05 to the market value of the land under sub-section (1) of Section 26, the total market value of the land has been determined. The market value arrived at by invoking sub-sections (1) and (2) of Section 26 has been calculated and on the said amount the solatium, interest and other statutory benefits have been paid. In my view, if the submission of the Advocates that the amount awarded under sub-section (2) is a statutory benefit is accepted, then the land owner may be

denied the interest or other statutory benefits on the same. In my view, this submission, therefore, cannot be accepted.

12 In this context, Section (7)(1) of the Maharashtra Court Fees Act, 1959 is required to be considered. It is extracted below:

> *7. **Fee on memorandum of appeal against order or award relating to compensation in certain cases***
> *(1) The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed [or challenged] by the Appellant*
> *Provided that, where the State Government is an acquiring body, it shall not be liable for payment of fee in such appeals.*
>
> *Explanation.— For the purposes of this sub-section, " amount" means the amount in dispute and it shall not include the amount of statutory benefits."*

13 The court fee is required to be paid as per sub section (1) of section 7. However, the court fee is not required to be paid on statutory benefits. Explanation to sub-section (1) states that for the purpose of this sub-section the 'amount' means the amount in dispute and it shall not include the

amount of statutory benefits. Therefore, the amount awarded under sub-section (2) of Section 26 cannot be said to be a statutory benefit. The appellant in the appeal would not be required to pay court fee on the amount of statutory benefits. However, the court fee would be required to be paid on the market value of the land determined under Section 26. In view of this, I do not see any substance in these revisions. Accordingly, both revisions are **dismissed.**

14 The appellants are therefore, required to pay court fee in accordance with sub section (1) of the Maharashtra Court Fees Act, 1959.

15 Both civil revision applications stand disposed of accordingly. Pending applications, if any, stand disposed of.

(G. A. SANAP, J.)

Namrata

Signed by: Miss Namrata Suryawanshi
Designation: PA To Honourable Judge
Date: 20/08/2024 19:03:02