



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12920 OF 2021

1. SANJAY BALKRUSHNA KULKARNI
2. SANTOSH BALKRUSHNA KULKARNI
3. SUNIL BALKRUSHNA KULKARNI
4. SATISH BALKRUSHNA KULKARNI
5. PRAFULLATA BALKRUSHNA KULKARNI

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Mr. Magar Balasaheb N and
Mr. Khanapure Kapil C.

AGP for Respondents: Mr. S.D. Ghayal

Advocate for Respondent No.3 : Mr. R.R. Bangar

Advocate for Respondent No.4 : Mr. V.T. Sakolkar

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CORAM : R.G. AVACHAT AND
ABASAHEB D. SHINDE, JJ.

DATE : 02.12.2025

PER COURT:

1. Heard.
2. The challenge in this writ petition under Article 226 of the Constitution of India is to the notices issued in the month of March, 2020 by respondent No.3 - Competent Authority, to the petitioners herein, calling upon them to receive the amount of compensation determined by him and quoted in the notices on account of acquisition of the petitioners' land for construction of the National Highway.
3. The learned advocate for the petitioners would submit that once an award is passed determining the amount of compensation

payable, the respondent No.3 - Competent Authority becomes *functus officio*. According to him the authority did not have power to reduce the amount of compensation once it has been determined. The course open for the respective parties including the acquiring body is to seek reference to be made to the Arbitrator. It took us through the relevant provisions of the National Highways Act, 1956 (the Act of 1956) to buttress his submissions.

4. The learned advocate for the acquiring body would on the other hand submit that it to have challenged the award on the ground of having granted compensation in excess of the prevailing market rate of the lands affected. Whereas, the learned advocate for the respondent No.3 adverted our attention to paragraphs No.5 to 8 of the respondent No.3 of affidavit-in-reply, wherein, it has been stated as follows :

- “5. The deponent says and submits that, at the time of the disbursement of the amount the deponent has noticed that, though the discussion in respect of the implementation of the Guidelines issued by the IGR, Pune under Maharashtra Stamp (Determination of Market Value), Rules, 1995 is mentioned and the applicability of Clause 29 (B) of the said guideline has been discussed but while determining the amount the said guidelines has not been implemented as the slab wise reduction is prescribed for the lands having N.A potentiality adjacent to the National Highway has not been applied while determining the amount of compensation.
6. The deponent says and submits that, as per the Ready reckoner and the Annual Value Rate of the year 2017-2018 of village Tq. Loha, District Nanded the rate has been determined but the slab as per Clause 29 (B) of the said guideline has not been followed. The copy of the relevant extract of the Guideline of Clause 29 (B) is annexed herewith and marked as EXHIBIT-"R-1"

7. The deponent says and submits that, after noticing the said fact the deponent being the custodian of the amount of the compensation has paid the amount by applying the Guideline under Clause 29 (B) and applied the slab by which certain amount of the compensation has been reduced and by deducting the said amount the payment of the amount of compensation to the petitioners was made. The copy of the payment received by the petitioners is already annexed to the Writ Petition.
8. The deponent says and submits that, the deponent has issued modified notices to the petitioners in this regard. The deponent after noticing the mistake in the Award has immediately taken steps and with intention to save the public money has made the payment after applying the Clause 29 (B) of the guidelines issued by the Government in this regards and issued modified notices to the petitioners.”

5. According to him the amount mentioned in the notice is lesser than the one granted in the award because the authority concerned later on realized implication of Clause 29 (B) of the I.G.R. Regulation. Thus, the respondent No.3 tries to justify the issuance of the notices challenged in this writ petition.

6. We have considered the submissions advanced and perused the documents relied on.

Admittedly, the lands of the petitioners have been acquired for construction of the National Highway. Individual notices were given to all the petitioners. The respondent No.3 determined the amount of compensation by following necessary procedure envisaged under Section 3G of the Act of 1956. Thereafter, the respondent No.3 issued the notices impugned herein calling upon the petitioners to receive the amount mentioned therein. Admittedly, the amount quoted in these notices is

lesser than the one quoted as payable to the petitioners in terms of the award passed in view of Section 3G of the Act, 1956.

7. In our considered view, the notices impugned herein ought to have been in consonance with the terms of the final award dated 04.12.2019. In short, issuing such notices is nothing short of reducing the amount granted in terms of the final award. The respondent No.3 does not have authority to do so. He should have left the matter to be decided by the Arbitrator in case any one is aggrieved by the amount of compensation determined in the award dated 04.12.2019. Needless to mention the respondent No.3 before passing the award ought to have considered the I.G.R. requisitions so as to adhere to Clause 29 (B) thereof. Since the acquiring body has challenged the award before the Arbitrator on the question of quantum of compensation, the issue involved therein could also be addressed by the authority concerned. Needless to mention respondent No.3 did not have power to issue the notices impugned herein reducing the amount of compensation payable to the petitioners herein in terms of the award dated 04.12.2019. The impugned notices are therefore liable to be quashed and set aside. The petition thus succeeds. The same is allowed in terms of prayer Clause 'B'.

(ABASAHEB D. SHINDE, J.)

(R.G. AVACHAT, J.)