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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8369 OF 2023

Jyotiram Dattoba Salunkhe]
Aged about : 48 years]
Occ : Agriculturist,]
R/at : At Village Bhavaninagar]
(Rajuri), Tal. Phaltan, Dist. Satara].....Petitioner.

Versus

- 1] The Competent Authority]
and Deputy Collector]
(Land Acquisition) No.16, Satara]
]]
2] The Project Manager (Tech),]
National Highway Authority of India,]
Pune.]
Off : S. No.134/1, BAIF Bhavan]
Campus, Dr. Manibhai Desai Nagar,]
Warje, Pune 411 058]
]]
3] The Deputy Engineer,]
P.W. Sub-Division, Phaltan.]
]]
4] The State of Maharashtra]
Through its Chief Secretary,]
Ministry of Public Works,]
Government of Maharashtra,]
Mantralaya, Mumbai].....Respondents

Mr. Milind Deshmukh, for the Petitioner.
Ms S R Crasto, AGP for the Respondents – State.

CORAM M.S. Sonak &
 Jitendra Jain, JJ.
DATED: 02 January 2025

ORAL JUDGMENT :- (Per M. S. Sonak, J.)

1. Heard Mr. Deshmukh, the learned counsel for the Petitioner and Ms. Crasto, the learned AGP for the Respondents – State.

2. Rule. The rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.

3. The Petitioner seeks the following substantive reliefs in this Petition: -

a. That this Hon'ble Court may be to quash and/or set aside the impugned letter dated 05.01.2023 bearing no. BHARARAPRA/PLAE-PUNE/RA.M.KRA. 965/2023/56 issued by Respondent No. 2 to Respondent No. 1 in the interest of justice.

b. That this Hon'ble Court be pleased to quash and/or set aside the Re-Valuation Report prepared on the basis of Panchanama dated 07.11.2022 done by Respondent in the interest of justice;

c. That this Hon'ble Court may be pleased to declare that, the valuation assessed as per the Final Award and Compensation amount of Rs. 36,54,534/- fixed and Disbursed to the Petitioner is legal and proper;

4. The record shows that the Petitioner has already withdrawn the compensation of Rs. 36,54,534/ in terms of the final award. After the withdrawal of this amount, the 2nd Respondent issued the impugned communication dated 05 January 2023 stating that the valuation of Rs.36,54,534/- and the payment of this amount to the Petitioner was incorrect. This communication dated 05 January 2023 further states that the correct valuation would be Rs.16,42,925/-; therefore, the difference would be adjusted against the compensation payable to the Petitioner for the acquisition of

some other land of the Petitioner. The impugned communication dated 05 January 2023 also refers to a re-valuation report based on the panchanama dated 07 November 2022.

5. Mr. Deshmukh, the learned counsel for the Petitioner, submits that the Petitioner was paid compensation of Rs.36,54,534/- based on the final award. He submits that the impugned communication dated 05 January 2023 virtually seeks to vary the final award under which the Petitioner was already paid compensation. He submits that such a course of action is impermissible, and, in any event, such a course of action could not have been adopted without even minimum compliance with principles of natural justice and fair play. Accordingly, he submits that the impugned communication dated 05 January 2023 and the so-called re-valuation report should be set aside.

6. Ms. Crasto, the learned AGP for the Respondents-State, submits that the valuation of Rs.36,54,534/—was excessive and disproportionate. After the error was realised, a re-valuation was carried out, and the correct compensation payable to the Petitioner was determined at Rs.16,42,925/—. Therefore, she submits that the Petitioner cannot insist upon retaining the excess compensation, and there was no error in the proposal for adjustment.

7. At this stage, we must note that based upon the impugned communication dated 05 January 2023, the Petitioner was, by notice dated 14 May 2024, called upon to refund/transfer the alleged excess compensation amount to the State. However, by further communication dated 15 May 2024, the State withdrew this communication dated 14 May 2024.

8. At this stage, we do not propose to discuss the correctness of the conclusions reflected in the impugned communication dated 05 January 2023 or the re-valuation report on which such conclusions are purported to be based. However, we are satisfied that such conclusions could not have been reached without following due process of law, which would include minimum compliance with principles of natural justice and fair play. The impugned communication, which visits the Petitioners with civil and pecuniary consequences, could not have been issued without minimum compliance with principles of natural justice and fair play.

9. The Petitioner has already been paid the compensation in terms of the final award. If there was any proposal to vary this compensation amount, then the minimum expected was a proper notice to the Petitioner followed by an opportunity for a hearing. The Petitioner could have raised all permissible pleas, including the plea of want of jurisdiction to vary such a finalised award. In such matters, the Writ Court is mainly concerned with the decision-making process, not just the final decision. In the present matter, the decision-making process is found to be wanting for failing to comply with the principles of natural justice.

10. Accordingly, we set aside the impugned communication dated 05 January 2023 and the re-valuation report based on which the impugned communication dated 05 January 2023 came to be issued. But we grant the Respondents–State a liberty to make such order and take further steps as may be available under the law. In doing so, the Respondents–State will have to issue proper notice to the Petitioner and grant the Petitioner an opportunity of hearing if any adverse action is proposed against the Petitioner.

11. Accordingly, we set aside the impugned communication dated 05 January 2023 and the re-valuation report on which it is based but grant the Respondent–State the liberty to proceed in accordance with the law as indicated above.

12. All contentions of all parties on merits are, however, left open.

13. The rule is made absolute in the above terms without any cost orders.

14. All concerned parties are to act upon the authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)