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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12458 OF 2023

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Maharashtra Krishna Valley
Development Corporation Ltd.,

... Petitioner

V/s.

Mainoddin Gudubhai Shaikh, since
deceased through LR's & Ors.

... Respondents

Ms. Chaitrali Deshmukh for the petitioner.

Ms. Shruti Tulpule for respondent Nos.1 & 2.

Ms. Tanu N. Bhatia, AGP for respondent Nos.3 and 4-
State.

CORAM : AMIT BORKAR, J.

RESERVED ON : APRIL 7, 2025

PRONOUNCED ON : APRIL 30, 2025

ORAL ORDER:

1. By filing the present writ petition under Articles 226 and 227 of the Constitution of India, the petitioner—being the acquiring body for Bori Medium Project, Kurnur, Taluka Akkalkot, District Solapur—has challenged the order dated 4 September 2021 passed by respondent No.4. The said order was passed in the application filed by respondent Nos.1 and 2 under Section 28A of the Land Acquisition Act, 1894 seeking re-determination of compensation.

2. The brief facts leading to the filing of this petition are as follows: Notification under Section 4 of the Land Acquisition Act,

1894, was issued on 22 January 1998, followed by the declaration under Section 6 on 7 June 1999, and ultimately, the award under Section 11 was passed on 4 August 2004. Respondent Nos.1 and 2 and their legal representatives are the original landowners whose lands were acquired for the said irrigation project.

3. One Anand Ganu Algude, who was similarly situated, had earlier filed a reference under Section 18 of the Act by way of LAR No.468 of 2005 before the Civil Judge, Senior Division, for enhancement of compensation. During the pendency of that reference, both parties amicably resolved their dispute before the National Lok Adalat and submitted a joint pursis at Exhibit 27 on 8 December 2018, on the basis of which an award came to be passed by the Lok Adalat on the same date in accordance with the provisions of the Legal Services Authorities Act, 1987.

4. Thereafter, respondent Nos.1 and 2 filed an application dated 18 December 2019 under Section 28A of the Land Acquisition Act, 1894, before respondent No.4, seeking re-determination of compensation based on the Lok Adalat award passed in LAR No.468 of 2005. Their application was initially rejected by order dated 16 September 2020, against which they preferred Writ Petition (St.) No.99876 of 2020 before this Court. By order passed in that writ petition, this Court directed respondent No.4 to reconsider the matter afresh in the light of the judgment in Shri Dhondiba Sudam Sonwane (Writ Petition No.9666 of 2013 decided on 29 November 2013).

5. In compliance with the said direction, respondent No.4

reconsidered the application under Section 28A and, by the impugned order dated 4 September 2021, allowed the same and granted enhanced compensation, including interest under various heads, to respondent Nos.1 and 2 based on the award passed in LAR No.468 of 2005.

6. Aggrieved by the said decision, the present writ petition has been filed by the acquiring body. It may be noted that an objection was raised on behalf of respondent Nos.1 and 2 regarding maintainability of this writ petition on the ground that an acquiring body has no locus to challenge such an order. However, this Court, by a reasoned order dated 18 September 2024, held that the writ petition is indeed maintainable. This view is consistent with the settled legal position that once the award is passed under Section 28A, and if such award fastens liability on the acquiring body beyond what was originally determined in the award under Section 11, the acquiring body becomes an aggrieved person and has the right to challenge such determination.

7. Learned Advocate Ms. Deshmukh, appearing for the petitioner, has made a pointed submission that the award passed in the National Lok Adalat cannot be treated as an "award of the Court" within the meaning of Part III of the Land Acquisition Act, 1894, particularly for the purpose of invoking Section 28A. She argued that Section 28A permits redetermination of compensation only when compensation is awarded by a Court under a reference under Section 18, and not when the award is based on settlement or compromise arrived at in a Lok Adalat proceeding.

8. To substantiate her submission, she placed reliance upon the Division Bench judgment of this Court in the case of *Umadevi Rajkumar Jeure & Ors. v. District Collector, Solapur & Ors.*, reported in 2022 (1) Mh.L.J. 562, which has taken a clear view that consent awards or awards passed in Lok Adalat proceedings cannot form the basis for invoking Section 28A, as such awards are not adjudications on merits by a civil court. She also referred to the Supreme Court judgment in *New Okhla Industrial Development Authority (NOIDA) v. Yunus & Ors.*, reported in (2022) 9 SCC 516, where the Apex Court held that awards passed by Lok Adalats are deemed decrees of the Court only for limited purposes of execution, and such awards do not have the character of a judicial determination of compensation by the Reference Court under Part III of the Act.

9. She further invited this Court's attention to paragraph 5 of the writ petition, wherein it is stated that the petitioner, being a statutory acquiring body, has to obtain administrative sanction, legal advice from Maharashtra Krishna Valley Development Corporation (MKVDC), and approval of competent authorities before initiating any legal proceedings. According to her, the delay in filing the present writ petition is neither deliberate nor due to negligence, but occurred owing to institutional constraints and procedural compliances. She submitted that the petitioner acted diligently and bona fide, and hence, the writ petition deserves to be considered on merits and not dismissed on grounds of delay.

10. On the other hand, Ms. Tulpule, learned Advocate for respondent Nos.1 and 2, opposed the petition. She submitted that

the Additional Collector, Solapur No.2, by the impugned award dated 4 September 2021, allowed the application of respondent Nos.1 and 2 under Section 28A. Thereafter, the respondents made repeated attempts to secure disbursement of the amount awarded, by visiting the petitioner's office on multiple occasions. However, there was no response from the petitioner and the amount remained unpaid. She submitted that it was only after a lapse of nearly one year from the date of award that the respondents were informed of the filing of the present writ petition. She argued that the writ petition was filed belatedly on 30 August 2022, and such delay is not satisfactorily explained. She placed reliance on paragraph 13 of the affidavit-in-reply, pointing out that LAR No.208 of 2002, which was filed for enhancement of compensation under the same original award dated 30 January 2000, came to be decided on 2 May 2022. Had the petitioner taken timely steps to challenge the impugned award dated 4 September 2021, the respondents could have relied on the fresh enhancement in LAR No.208 of 2002 to file a fresh reference under Section 28A. However, due to the petitioner's inaction and delay, the limitation for filing reference ended on 2 August 2022, thereby causing irreversible prejudice to the respondents. Hence, according to her, the petition suffers from gross delay and laches and no case is made out for interference by this Court under its extraordinary jurisdiction, particularly when the respondents have suffered a substantive loss of legal remedy due to the belated challenge raised by the petitioner.

11. Rival contentions fall for consideration.

12. On perusal of the impugned order, it is evident that respondent Nos.1 and 2 had filed application under Section 28A of the Land Acquisition Act, 1894 based on compensation awarded in LAR No.468 of 2005 which was disposed of on the basis of compromise terms before National Lok Adalat and, therefore, in view of Division Bench Judgment of this Court in the case of *Umadevi Rajkumar Jeure* (supra) and *New Okhla Industrial Development Corporation (NOIDA)* (supra), application under Section 28A filed by respondent Nos.1 and 2 having not been maintainable, it is required to be quashed and set aside.

13. On a careful perusal of the impugned order, it becomes evident that respondent Nos.1 and 2 had preferred an application under Section 28A of the Land Acquisition Act, 1894, seeking re-determination of compensation based upon the award rendered in LAR No.468 of 2005. However, the material on record unmistakably reveals that LAR No.468 of 2005 came to be disposed of not by adjudication on merits, but rather on the basis of compromise terms agreed between the parties during proceedings before the National Lok Adalat.

14. In this context, it would be profitable to refer to the Division Bench judgment of this Court in *Umadevi Rajkumar Jeure & Ors. v. District Collector, Solapur & Ors.* (supra), which categorically holds that an award passed in Lok Adalat, based on a compromise settlement, does not amount to a judicial adjudication under Part III of the Land Acquisition Act, 1894, and consequently, cannot be the basis for invoking Section 28A for re-determination of compensation.

15. The principle stands fortified by the authoritative pronouncement of the Hon'ble Supreme Court in *New Okhla Industrial Development Authority (NOIDA) v. Yunus & Ors.* (supra), wherein it has been held that an award rendered by a Lok Adalat is essentially a compromise decree, reflecting the mutual agreement of parties, and not a judicial pronouncement on the merits of the dispute by the Reference Court. Thus, such an award cannot furnish a foundation for the exercise of statutory rights under Section 28A of the Act. In light of the above binding precedents and the factual scenario emerging from the record, it is evident that the application filed by respondent Nos.1 and 2 under Section 28A was not maintainable in law. Consequently, the impugned order, which rests solely upon such an untenable foundation, cannot be sustained, and is therefore liable to be quashed and set aside.

16. The issue raised by respondent Nos.1 and 2, pertaining to the entertainability of the present writ petition on the ground of delay, is not devoid of substance and demands close judicial scrutiny. The record reveals that the impugned award under Section 28A was passed by respondent No.4 on 4 September 2021, whereas the present writ petition came to be instituted on 11 August 2022, nearly a year thereafter. The petitioner has offered an explanation in paragraph 5 of the petition, asserting that, being a Government-controlled acquiring body, it is required to obtain approvals, administrative sanctions, and legal opinion from the Maharashtra Krishna Valley Development Corporation (MKVDC) before initiating litigation. It is further stated that the delay was

unintentional and procedural, and that the petitioner has a strong case on merits against the maintainability of the application filed under Section 28A.

17. However, the explanation offered by the petitioner, though not altogether implausible, cannot be accepted in isolation. The conduct of the petitioner must necessarily be scrutinized not merely on the touchstone of institutional procedures and administrative constraints, but also from the perspective of the prejudice caused to the opposite parties. It is an admitted position on record that during the intervening period, respondent Nos.1 and 2 were deprived of a valuable opportunity to seek re-determination of compensation under Section 28A of the Land Acquisition Act, 1894, based on a fresh judicial award dated 2 May 2022 passed in LAR No.208 of 2002 pertaining to the same acquisition.

18. The limitation for filing such an application, being a statutory right conferred under Section 28A, expired on 2 August 2022, and by that time, the respondents had already invested their faith in the award passed earlier under compromise terms. Had the petitioner approached this Court within a reasonable period, the respondents could have exercised their legal remedy without any impediment. Delay causing prejudice to the opposite party cannot be brushed aside lightly, aptly applies in the present case. The delay here is not a mere lapse in procedure; it has resulted in denial of substantive statutory rights to the respondents.

19. This Court is not oblivious to the ground realities where

procedural delays by public bodies are an unfortunate but frequent occurrence. Delays by governmental agencies must be tested with a pragmatic and realistic approach, balancing systemic constraints with the duty to act diligently. However, the rule of law—the bedrock of our constitutional scheme—demands that justice must not only be done but must be seen to be done, and that no party should be made to suffer prejudice for no fault of its own.

20. In the present case, the illegality vitiating the very foundation of the impugned order, namely, treating a compromise award passed by the Lok Adalat as a judicial determination under Section 18, cannot be permitted to stand. The Division Bench judgment in *Umadevi Rajkumar Jeure (supra)* and the Supreme Court judgment in *NOIDA v. Yunus (supra)* clearly leave no room for doubt on this aspect. At the same time, the equities arising out of the delayed challenge and the resultant prejudice caused to respondent Nos.1 and 2 deserve thoughtful balancing, so that no party is left remediless.

21. In view of the gravity of the legal infirmity infecting the impugned order, and the concurrent prejudice suffered by respondent Nos.1 and 2, this Court is of the considered opinion that the ends of justice would be best served by quashing and setting aside the impugned order on merits, while at the same time preserving and protecting the rights of respondent Nos.1 and 2 to seek re-determination of compensation afresh under Section 28A.

22. The purpose of judicial discretion is to promote substantial justice and prevent miscarriage of justice. If the impugned order is

permitted to stand, it would perpetuate an illegality; if the writ petition is dismissed for delay, it would close the door to justice for the respondents. Thus, the cause of justice would be advanced—not defeated—by setting aside the impugned order, while safeguarding the respondents' substantive right to statutory redress.

23. For the reasons recorded above, the following order is passed:

- i) The impugned order dated 4 September 2021 passed by respondent No.4 suffers from a fundamental legal infirmity and is accordingly liable to be quashed and set aside;
- ii) Accordingly, the impugned order dated 4 September 2021 is quashed and set aside;
- iii) Respondent Nos.1 and 2 shall be at liberty to file a fresh application under Section 28A of the Land Acquisition Act, 1894, based on the Award dated 2 May 2022 passed in LAR No.208 of 2002, within a period of four weeks from the date of delivery of this judgment. If such an application is filed within the stipulated time, the competent authority shall consider and decide the same in accordance with law, without being influenced by any prior proceedings.

24. The writ petition stands disposed of in above terms. There shall be no order as to costs.

(AMIT BORKAR, J.)