

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6463 OF 2024

- 1 Nagendra Chanmalappa Kesur
- 2 Shrimant Chanmalappa Kesur
since deceased through legal heirs
- 2a Parvati Shrimant Kesur
- 3 Shivputra Chanmalappa Kesur
- 4 Parmeshwar Chanmalappa KesurPetitioners

V/S

- 1 The Competent Authority
Deputy Collector (Land Acquisition)
- 2 National Highways Authority of India
- 3 The Union of India
through its Ministry of Roadways and Transport
- 4 Shrimant Mahadeo Vagdari
- 5 Bhutali Mahadeo Vagdari
- 6 Shivnna Mahadeo Vagdari
- 7 Mallinath Ningappa Vagdari
- 8 Manjunath Ningappa VagdariRespondents

Mr. Surel Shah, Senior Advocate i/b Mr. Saakshat Relekar
for the Petitioners.

Ms. M.S. Shrivastava, AGP *for Respondent No.1 / State.*

Mr. Mohansingh U. Rajput, *for Respondent Nos.4 to 8 / State.*

**CORAM : SANDEEP V. MARNE, J.
RESERVED ON : 17 MARCH 2025.
PRONOUNCED ON : 21 MARCH 2025.**

J U D G M E N T:

1. By this Petition, Petitioner has challenged order dated 16 April 2024 passed by the Competent Authority and Deputy Collector, (Land Acquisition No.11), Solapur, rejecting the objection raised by the Petitioner to disbursement of compensation to Respondent Nos.4 to 8. The impugned order is challenged on the ground of absence of jurisdiction with the Competent Authority to decide the disputes relating to disbursement of compensation on account of existence of competing claims between Petitioners and Respondent Nos.4 to 8 relating to title of acquired land.

2. Brief facts leading to filing of the present Petition are that one Mr. Siddhappa Sangappa Kesur was the owner and possessed land bearing Gat Nos. 351/1, 351/2, 351/3, 342, 343/2, 346/1 and 346/2 at village Mandargi, Taluka Akkalkot, District Solapur. Said Siddhappa Sangappa Kesur passed away in the year 1960 leaving behind his sons Bhimsa and Chanmalappa. According to Petitioners, there was family partition, under which Bhimsa received land bearing Gat Nos. 351/2, 342 and 346/2 whereas Chanmalappa received land bearing Gat Nos. 351/1, 351/3, 341 and 345/2. It appears that the consolidation scheme

was implemented in the village in the year 1977 under which the Gats were renumbered as under:

Old Gat Nos. 351/1, 351/2(a)	New Gat No.697
Old Gat Nos.351/2(b), 351/3	New Gat No.696

3. According to the Petitioners there was a gross error in description of Gat numbers while implementing the consolidation scheme and accordingly Bhimsa filed objection/complaint before the Settlement Commissioner on 28 February 1976 for rectification of mistake. By order dated 7 May 1983, the Settlement Commissioner allowed the objection/complaint raised by Bhimsa. According to Petitioners, the Consolidation Officer issued amended land consolidation scheme on 27 October 1983 thereby rectifying the mistake by renumbering the Gat numbers. However, despite passing order dated 7 May 1983 as well as the amended Consolidation Scheme dated 27 October 1983, effect was not given in the revenue records. According to the Petitioners, the position *qua* the old Gat number, Gat number after implementation of Consolidation Scheme and Gat number after correction is as under:

Old Consolidation Scheme	Section 19(1) land consolidation scheme	Amendment land consolidation scheme
Gat No.351/1	Gat No.697 (Gat No.351/1, 351/2(a))	Gat No.951, Gat No.697
Gat No.351/2 Gat No.351/3	Gat No.696 (Gat No.351/2(b), 351/3)	Gat No.696

4. Petitioners are legal heirs of Chanmalappa Siddhappa Kesur, who passed away in the year 2010. According to the

Petitioners, land bearing Gat Nos.951 and 696 remained with Petitioners in accordance with amended consolidation scheme.

5. By Notification dated 6 May 2022, the Government of India announced acquisition of Gat Nos. 697 and 951 as well as Gat No. 681 for construction of National Highway at Ahmednagar, Solapur and Akkalkot – Maharashtra/Karnataka border. During the acquisition process, Petitioners discovered that Bhimsa's legal heirs had sold Petitioners' share in Gat No. 951 to Respondent Nos.4 to 8 vide registered Sale Deed dated 8 November 2001. Petitioners therefore addressed notice dated 20 July 2022 raising objection about the acquisition process which was followed by further objections raised on 1 August 2022 and 7 November 2022. On 20 February 2024 Petitioners filed Application No. RR/2972/2023 for award of compensation to them in respect of the acquired land. Respondent Nos.4 to 8 objected to the said application on the ground that they are the owners of land bearing Gat No. 951 under the Sale Deed dated 8 November 2001. The Competent Authority has adjudicated the dispute by the impugned order dated 16 April 2024 rejecting Petitioners' claim for payment of compensation in respect of the acquired land and directing payment of compensation in respect of the acquired land to Respondent Nos.4 to 8. Petitioners are aggrieved by order dated 16 April 2024 passed by the Competent Authority and have accordingly filed the present Petition.

6. Mr. Shah, the learned Senior Advocate appearing for Petitioners would submit that the impugned order dated 16 April

2024 passed by the Competent Authority is wholly without jurisdiction. He would submit that the Competent Authority ought to have made a reference to the Civil Court for deciding the dispute amongst Petitioners and Respondent Nos. 4 to 8 about entitlement to receive compensation of acquired land. He would submit that the Competent Authority has erroneously conducted enquiry into title of the acquired land, when such jurisdiction is not vested in him. He would submit that this Court has repeatedly held that every dispute relating to payment of compensation in respect of acquired land between two contesting claimants must necessarily be referred to the Civil Court under the provisions of sub-section (4) of Section 3-H of the National Highways Act, 1956 (**the Act**). In support of his contention, he would rely upon judgment of Division Bench of this Court in *Arun s/o Trimbakrao Lokare vs. State of Maharashtra and others*¹ and *Rajaram Waman Rane & Ors. vs. Ramkrishna Mahadev Rane and others*². He would accordingly submit that since the order passed by the Competent Authority is *ex-facie* without jurisdiction, the same is liable to be set aside by directing reference to the Civil Court which alone can decide entitlement of Petitioners and Respondent Nos.4 to 8 to receive compensation of the acquired land.

7. The Petition is opposed by Mr. Rajput, the learned counsel appearing for Respondent Nos.4 to 8. He would submit that Respondent Nos.4 to 8 have purchased the acquired land through

1 2017 (6) Mh.L.J. 612

2 (2019) 3 AIR Bom R 93

registered Sale Deed dated 8 November 2001 and that therefore they are owners and possessors of the acquired land. That Petitioners never questioned Sale Deed dated 8 November 2001 and have acquiesced in the same. That if Petitioners were to file a suit challenging Sale Deed dated 8 November 2001 the same would have been barred by limitation. That the jurisdiction of Competent Authority under Section 3-H(3) of the Act is deliberately misused to circumvent the objection of delay in setting aside the Sale Deed dated 8 November 2001. He would submit that Petitioners have no semblance of right in the acquired land and the Petition is filed with the sole objective of extracting monies from Respondent Nos.4 to 8. That Petitioners were fully aware about execution of Sale Deed in favour of Respondent Nos.4 to 8 whose names were mutated to the revenue records of the concerned lands. He would further submit that Civil Court otherwise does not have jurisdiction to decide alleged errors in implementation of consolidation scheme. That even civil suit challenging the Sale Deed cannot be entertained without effecting necessary corrections in the consolidation scheme. He would submit that payment of compensation of acquired land to Respondent Nos.4 to 8 has already been delayed for considerable period of time on account of baseless objections raised by Petitioners. He would accordingly pray for dismissal of the Petition.

8. I have also heard Mrs. Shrivastava, the learned AGP for the Respondent-State. She would support the order passed by

the Competent Authority and Deputy Collector, (Land Acquisition No.11) and pray for dismissal of the petition.

9. Rival contentions of the parties now fall for my consideration.

10. Land admeasuring 1.3280 Hectares in Gat No.697 (part) has been acquired for construction of green field corridor connecting Ahmadnagar - Solapur - Akkalkot, Maharashtra Karnataka border. The compensation in respect of acquired land is determined at Rs.98,80,660/-. It appears that notices were issued to all the persons whose names appeared in revenue records for claiming compensation in respect of the acquired land. Respondent Nos.4 to 8 filed application on 21 November 2023 in prescribed format for disbursement of compensation. In those proceedings, Petitioners raised objection to disbursement of compensation to Respondent Nos.4 to 8. Accordingly, the Competent Authority has heard both the parties and has rejected the objection raised by Petitioners by passing order dated 16 April 2024.

11. It is the contention of Petitioners that the Competent Authority does not have jurisdiction to decide competing claims between Petitioners and Respondent Nos.4 to 8 *qua* title in the acquired land. Reliance is placed on Section 3-H of the National Highways Act which provides thus:

3-H. Deposit and payment of amount.-

(1) The amount determined under section 3-G shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority before taking possession of the land.

(2) As soon as may be after the amount has been deposited under sub-section (1), the competent authority shall on behalf of the Central Government pay the amount to the person or persons entitled thereto.

(3) Where several persons claim to be interested in the amount deposited under sub-section (1), the competent authority shall determine the persons who in its opinion are entitled to receive the amount payable to each of them.

(4) If any dispute arises as to the apportionment of the amount or any part thereof or to any person to whom the same or any part thereof is payable, the competent authority shall refer the dispute to the decision of the principal civil Court of original jurisdiction within the limits of whose jurisdiction the land is situated.

(5) Where the amount determined under section 3-G by the arbitrator is in excess of the amount determined by the competent authority, the arbitrator may award interest at nine per cent. per annum on such excess amount from the date of taking possession under section 3-D till the date of the actual deposit thereof.

(6) Where the amount determined by the arbitrator is in excess of the amount determined by the competent authority, the excess amount together with interest, if any, awarded under sub-section (5) shall be deposited by the Central Government in such manner as may be laid down by rules made in this behalf by that Government, with the competent authority and the provisions of sub-sections (2) to (4) shall apply to such deposit.

12. Thus, under sub-section (1) of Section 3-H of the Act the amount of compensation is required to be deposited by the Central Government with the Competent Authority before taking possession of the land. The Competent Authority in turn is required to pay the amount of compensation to the person or persons entitled to such compensation. Sub-sections (3) and (4) are relevant for deciding the issue at hand. Sub-section (3) deals with the situation where several persons claim to have interest

in the amount of compensation deposited with the Competent Authority and seek to invoke jurisdiction of the Competent Authority to determine the persons who are entitled to receive the compensation. Sub-section (4) deals with situation where disputes arise about apportionment of the amount of compensation or about the person to whom the same or part thereof is payable where the Competent Authority is required to refer dispute for decision to the Civil Court in whose jurisdiction the land is situated.

13. Provisions of sub-sections (3) and (4) of Section 3-H of the Act have been interpreted by several decisions of this Court. ***Arun Trimbakrao Lokare*** (supra) involved raising of claim by the Petitioner who was one of the co-owners of the land for sharing the compensation. After hearing parties, the Competent Authority had rejected Petitioner's claim. In the light of the above position, the issue arose before Division Bench as to whether the Competent Authority had jurisdiction to decide competing claims of various persons towards share in the compensation. The Division Bench took note of *pari materia* provisions of Section 30 of the Land Acquisition Act, 1894 as well as similar provisions in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. This Court relied upon judgment of the Apex Court in ***Sharada Devi vs. State of Bihar***³ and held in paragraphs 16 and 17 as under:

³ AIR 2003 SC 942

16. It is a settled principle of interpretation of statute that the provisions of any statute are to be so interpreted as to give effect to each of them to the extent possible without giving rise to any conflict or overlapping. This principle of harmonious construction needs to be applied in the matter before hand vis-a-vis sub-section (3) of section 3-H, while interpreting sub-section (3). Such application would lead us to interpret these provisions in harmonious manner putting neither of them otiose. A careful reading of these provisions would reveal that when several persons are entitled to claim compensation, the competent authority has power and jurisdiction to record an opinion and determine the persons who are entitled to receive share/s and only enables him to apportion the amount of compensation amongst them according to the share they are entitled to. As against this, sub-section (4) contemplates a situation where the dispute is raised as to the entitlement of the compensation by several persons and the jurisdiction to decide such dispute is conferred upon the Principal Civil Court of original jurisdiction. In other words, whenever there is dispute raised by any person as to the right to receive either the whole or portion of the compensation, the competent authority is obliged to refer the matter to the Principal Civil Court of original jurisdiction.

17. In view of such legal position, when sub-section (4) of section 3-H specifically requires the dispute as to entitlement to receive compensation determined under section 3-G of the Act to be referred to and decided by the Principal Civil Court of original jurisdiction, it by implication necessarily excludes jurisdiction of the competent Authority which is entitled to merely decide the point of apportionment of the compensation amongst several persons under sub-section (3) of section 3-H. Such interpretation, in our view, strikes a balance between sub-section (3) and sub-section (4) of section 3-H of the Act and make them operative in separate spheres. The submission of the learned Advocate for the petitioner, on these lines therefore deserves to be accepted.

14. In ***Rajaram Waman Rane*** (supra) another Division Bench of this Court has held in paragraph 18 as under:

18 Thus, the scheme of Section 3H of the said Act consists of two steps divided into two sub-sections, i.e. sub-section (3) and sub-section (4) which cannot be read disjunctively. One cannot argue that, only dispute as to apportionment of the amount is referable to Civil Court and not the dispute as to entitlement. If such a argument is accepted, then a person whose entitlement is negated by the Competent Authority may have to approach

the Civil Court and only thereafter lay the claim in the compensation. It may be stated, such a interpretation would defeat the rights of legitimate claimants whose names were not recorded in the Revenue records, may be for any reason. If such a claimant asserts his rights in the land which is under acquisition, on the basis of some evidence which prima-facie discloses his interest, his claim cannot be brushed aside. Therefore, even if competent authority rejects his "entitlement", such a finding recorded by the authority is not conclusive and would not attain finality. It is to be noted that, under sub-section (4) nature of disputes referable to Civil Court also includes a dispute as "to any person to whom the same or any part thereof is payable" (emphasis supplied). In other words, if entitlement of claimant is rejected, still it would be an issue referable to a Civil Court as it would be covered by the expression "issue as to any person to whom the same is payable" within the meaning of sub-section (4) of Section 3H. In our opinion, documents placed on record by the petitioners in support of their claim, prima-facie disclose their right. In view of this, we are of the view that, the order passed by the Competent Authority, inter-alia, refusing to refer the dispute as to entitlement to claim interest in the compensation runs contrary to the scheme of provisions of sub-section (3) and (4) of Section 3H of the National Highways Act.

15. Mr. Shah has strenuously relied on judgment in ***Rajaram Waman Rane*** (supra) in support of his contention that even a dispute raised by a claimant not confined to mere apportionment, also needs to be compulsorily referred to Civil Court under provisions of sub-section (4) of Section 3-H of the Act.

16. However, in ***Rajaram Waman Rane***, the Division Bench has held that "*In our opinion, documents placed on record by the petitioners in support of their claim, prima-facie disclose their right*". Thus the judgment in ***Rajaram Waman Rane*** directing

reference of dispute to Civil Court is rendered after recording a *prima facie* finding that the Petitioner therein had demonstrable case of right in acquired land.

17. Petitioners' case essentially relates to the alleged error effected in the consolidation scheme which was implemented in village Mandargi in the year 1977. It would be apposite to reproduce the exact grievance of the Petitioners as raised before the Competent Authority in paragraphs 4 and 5 of their objection:

"४) राष्ट्रीय महामार्ग अधिनियम मधील तरतुदीनुसार सदर निवाड्यातील शेतजमीनी म्हणजेच मौजे मैदगी येथील मुळ शेतजमीनी सर्व्हे नं. ३५१/१, ३५१/२, ३५१/३, ३४२, ३४३/२, ३४६/१ व ३४६/२ या शेतजमीनी सदर हरकतदार यांच्या केसूर घराण्यातील होत्या हरकतदार यांचे घराण्यातील मुळ पुरुष भिमशा सिध्दप्पा केसूर व चनमलप्पा सिध्दप्पा केसूर हे दोघे भाऊ होते. एकत्र हिंदु कुटुंबातील वाटणीमध्ये शेतजमीनी सर्व्हे नं. ३५१/२, ३४२, ३४६/२ या शेतजमीनी-स्व:-भिमशा-सिध्दप्पा केसूर यांच्या वाटणीस आलेल्या होत्या तर शेतजमीनी सर्व्हे नं.३५१/१, ३५१/३, ३४१, ३४५/२ शेतजमीनी स्व. चनमलप्पा सिध्दप्पा केसूर यांच्या हिश्यास दिलेल्या होत्या. मैदगी गावाची एकत्रीकरण योजना सन १९७७ साली राबविण्यात आली होती.

५) सदर मैदगी गावची एकत्रीकरण योजना राबविताना एकत्रीकरण अधिकाऱ्याकडून जमीनीचे अदलाबदल करताना नजर चुकीने जी चुक झालेली होती, त्याबाबत स्व. भिमशा सिध्दप्पा केसूर यांनी मा. जमाबंदी आयुक्त व संचालक, भुमी अभिलेख, महाराष्ट्र राज्य पुणे यांच्याकडे दि.२८/०२/१९७६ रोजी लेखी तक्रारी अर्ज देऊन त्याबद्दलची एकत्रीकरण अधिकाऱ्याची चुक लक्षात आणून दिलेली होती. सदर तक्रारीच्याआधारे मा. सहाय्यक एकत्रीकरण अधिकारी यांनी या अर्जातील वाद विषय जमीनीबाबत सन १९४७ चा मुंबईचा तुकडे पाडण्यास मनाई करण्याबाबत व त्याचे एकत्रीकरणेबाबत कायदा अन्वये जमीनीचे टक्केवारी पत्रक तयार करून एकत्रीकरण करण्यापुर्वीच्या जमीनी व खातेदार तसेच एकत्रीकरणे केल्यानंतरचे जमीनी व खातेदार याबाबतचा अहवाल सादर केलेला होता. सदर अर्जावरून लेखी तक्रारीवरून मा. जमाबंदी आयुक्त, पुणे यांनी सदरची चुक लक्षात आल्यानंतर सदरची एकत्रीकरण व गट बांधणी योजनेबाबत दि. १८/०४/१९७९ रोजी चौकशी घेऊन तसेच स्व. भिमशा केसूर वगैरे यांचे जाबजबाब घेऊन सदर हरकतदार यांच्या शेतजमीनीबाबत झालेली चुकीची दुरुस्ती करण्याबाबत आदेश करून मा. जमाबंदी आयुक्त, पुणे यांनी दि.०७/०५/१९८३ रोजी मा. एकत्रीकरण अधिकारी, सोलापूर यांना लेखी आदेश करून सदरच्या हरकतदार यांच्या वाद शेतजमीनीबाबतची हरकत मंजूर करून दुरुस्त योजना मंजूर करण्यात आल्याचे कळविले. तसेच दि.१६/०५/१९८३ रोजी मा. एकत्रीकरण अधिकारी,

सांगली यांनी सदर दुरुस्ती एकत्रीकरण योजनाबाबत कागदपत्रे देखील पाठविलेले होते. परंतु सदरचा दुरुस्तीचा आदेश होवून देखील त्याचा अंमल अभिलेखात महसूल कार्यालयात घेण्यात आला नाही. तसेच मॅदगी गावाच्या मुळ मंजूर योजनेमध्ये सदरचे गट नव्हते तर विषयांकीत दुरुस्ती योजनेमध्ये एकत्रीकरण योजना लागू झाल्यानंतर अस्तित्वात आलेले नविन गट नं.९५१, ९५२ आलेले असताना त्यापैकी शेतजमीन गट नं.९५१ हा दुरुस्ती योजनेअन्वये तयार झालेला गट नं.९५१ पुर्वीच अन्य एका योजनेमुळे दि.२०/१२/१९८१ फेर नं.३८५ अन्वये तयार झालेला होता त्यामुळे सदर नविन दुरुस्ती योजनेतील गट नं.९५१ व ९५२ ऐवजी त्यास गट नं.९५२ व ९५३ असे गट नंबर देणे गरजेचे असताना गट नं. ९५१ हा दुबार देण्यात आलेला आहे. त्यामुळे मुळ दुरुस्ती योजनेत दुरुस्ती करणे गरजेचे आहे, असे पत्र देखील दि.१८/०८/२०२३ रोजी मा. उपअधिक्षक, भुमी अभिलेख यांनी सदर वरील जमीनीचा निवाडा तयार होण्यापुर्वी मा. उपअधिक्षक, भुमी अभिलेख, अक्कलकोट यांनी कळविले होते व आहे. सदर मा. एकत्रीकरण अधिकारी यांनी दुरुस्ती योजना हरकतीची सुनावणी घेऊन झालेली चुक लक्षात आल्यानंतर तशी दुरुस्ती केल्यानंतर मुंबईचा जमीनीचा तुकडे पाडण्यास प्रतिबंध करण्याबाबत व त्याचे एकत्रीकरण करण्याबाबत अधिनियम १९४७ मधील नियम १८अ मधील नमुना -५ (अ) प्रमाणे स्व. भिमशा सिध्दप्पा केसूर तसेच स्व. चनमलप्पा सिध्दप्पा केसूर व स्व. श्री. रेवप्पा कलप्पा हिप्परगी यांना जमीनीचे कब्जा मागणीबाबत दि.१७/१०/१९८३ रोजीचे अधिसूचनेनुसार मागणी करून दि.१७/०७/१९८४ रोजी कब्जेपावती देणेबाबत प्रतिज्ञापण तयार केले असता सदर दुरुस्तीप्रमाणे जमीनीचा कब्जा पूर्वीपासून स्व. चनमलप्पा सिध्दप्पा केसूर व श्री. रेवप्पा कलप्पा हिप्परगी यांचेकडे कायम होता व आहे.”

18. Thus, Petitioners' case is that there was an error in implementing the consolidation scheme and that proceedings were initiated on 28 February 1976 for correction of that error and order was passed by Settlement Commissioner on 7 May 1983. Petitioners also relied upon communication dated 16 May 1983 of Consolidation Officer, Sangli forwarding the papers relating to corrected Consolidation Scheme. However, according to Petitioners though the error was corrected by the Consolidation Officer, effect thereto was not given in revenue records. Thus, the entire dispute between Petitioners and vendors of Respondent Nos.4 to 8 relate to the alleged error in implementation of the Consolidation Scheme in the year 1977. Under provisions of Section 36A of the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947

(**Consolidation Act**), jurisdiction of Civil Court is barred.

Section 36A of the Consolidation Act provides thus:

36A. Bar of jurisdiction.—

(1) No Civil Court or Mamlatdars Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the State Government or any officer or authority.

(2) No order of the State Government or any such officer or authority made under this Act shall be questioned in any Civil, Criminal or Mamlatdars Court.

19. Section 31A of the Consolidation Act confers jurisdiction on the Consolidation Officer or the Settlement Commissioner to correct clerical or arithmetical mistakes in the scheme and provides thus:

31A. Correction of clerical and arithmetical mistake in scheme.

If, after a scheme has come into force, it appears to the Settlement Commissioner that the scheme is defective on account of any clerical or arithmetical mistake or error arising therein from any accidental slip or omission, and he is satisfied that the correction of such mistake or error would not vary the scheme in any material particular, he may by order in writing correct such mistake or error and publish his order in the prescribed manner.

20. Section 33 of the Consolidation Act confers power on the Settlement Commissioner to vary or revoke the scheme published and confirmed in accordance with the Consolidation Act. Section 33 of the Consolidation Act provides thus:

33. Power to vary or revoke scheme.—

A scheme for the consolidation of holding confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act.

21. Thus, Consolidation Act is a complete Code in itself relating to any issue arising out of implementation of

Consolidation Scheme. All the grievances of parties relating to implementation of the Consolidation Scheme must be resolved within the frame-work of Consolidation Act and there is no scope for invoking jurisdiction of Civil Court to raise any grievance relating to alleged error in implementation of the Consolidation Scheme.

22. The grievance of the Petitioners is required to be viewed in the light of the provisions of Consolidation Act, which seek to bar jurisdiction of the Civil Court to decide any issue relating to alleged errors in the Consolidation Scheme. If this is the position in law, the issue here is whether the Civil Court would be in a position to decide title dispute between the Petitioners and vendors of Respondent Nos.4 to 8 relating to the acquired land? The answer to the issue *prima facie* appears to be in the negative considering provisions of Section 36A of the Consolidation Act. Mr. Shah has attempted to salvage the situation by contending that the error in the Consolidation Scheme is already corrected by passing order dated 7 May 1983 read with communication dated 16 May 1983. However, this is Petitioners' version and admittedly effect was not given to the said order dated 7 May 1983 of Settlement Commissioner or communication dated 16 May 1983 of the Consolidation Officer. Thus, the proceedings still remained within the bounds of the Consolidation Act and the alleged error in implementation of the Consolidation Scheme has not really been corrected. In the light of this position, Civil Court's jurisdiction to entertain dispute relating to erroneous

implementation of Consolidation Scheme is clearly questionable in the facts and circumstances of the present case.

23. Another vital position in the present case is that the land has been purchased by Respondent Nos. 4 to 8 vide registered Sale Deed dated 8 November 2001. After execution of the registered Sale Deed dated 8 November 2001, the names of Respondent Nos.4 to 8 were apparently mutated to the revenue records. Petitioners, who now claim title in respect of the purchased land, never thought of challenging the Sale Deed dated 8 November 2001. The Sale Deed was required to be challenged within the prescribed period of limitation. It is sought to be suggested by Mr. Shah that execution of Sale Deed was not in the knowledge of the Petitioners and that they acquired knowledge about its execution only at the time of initiation of acquisition proceedings.

24. In the light of above peculiar facts and circumstances of the present case, I am unable to record a *prima facie* finding as was done by the Division Bench in ***Rajaram Waman Rane*** (supra) that Petitioners have made out demonstrable case of title in respect of the acquired land.

25. This Court is called upon to exercise jurisdiction under Article 227 of the Constitution of India, which is corrective in nature. It is well settled position of law that in exercise of extra-ordinary jurisdiction under Article 227 of the Constitution of

India, the High Court need not correct every error of law especially when the final conclusion reached by authority is acceptable. Reference in this regard can be made to the judgment of the Apex Court in ***Garment Craft V/s. Prakash Chand Goel***⁴ in which the Apex Court has held in paragraph 15 as under:

15. Having heard the counsel for the parties, we are clearly of the view that the impugned order is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice.

26. Considering the peculiar facts and circumstances of present case, the issue that arises for consideration is whether this Court can be called upon to exercise its extraordinary jurisdiction to set aside the impugned order dated 16 April 2024 when Petitioners are unable to make out demonstrable *prima facie* case of title in respect of the acquired land. There are two clear factors against the Petitioners for not directing a reference to the Civil Court under Section 3-H(4) of the Act. Firstly Petitioners will have to ultimately get the Consolidation Scheme

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corrected with a view to claim title in respect of the acquired land and correction of Consolidation Scheme cannot be effected in a Reference made to the Civil Court under Section 3-H(4) of the Act. Secondly, Petitioners have maintained silence about Sale Deed of acquired land executed in favour of Respondent Nos.4 to 8 for over 20 years. Thus what cannot be directly achieved by filing a suit for setting up challenge to the Sale Deed dated 8 November 2001 is now sought to be indirectly achieved by seeking a reference to the Civil Court under Section 3-H(4) of the Act. Petitioners claim for compensation in the acquired land cannot be allowed unless Civil Court arrives at a conclusion that the Sale Deed executed in favour of Respondent Nos.4 to 8 is invalid and not binding on the Petitioners. If Petitioners were to file a suit in the year 2022 challenging Sale Deed dated 8 November 2001 such challenge would have been susceptible to the objection of limitation as the suit was required to be instituted within a period of three years from the date of execution of the Sale Deed or within three years of acquisition of knowledge about execution of Sale Deed. As observed above, names of the Respondent Nos.4 to 8 were mutated to the revenue records consequent to execution of Sale Deed dated 8 November 2001 which would in ordinary case would have enabled the Petitioners to acquire knowledge about execution of the said Sale Deed.

27. On account of the above twin difficulties, which the Petitioners will have to surmount, before seeking claim in respect of compensation for acquired land, in my view, a routine order of

reference under provisions of Section 3-H(4) of the Act is not warranted in the peculiar facts and circumstances of the present case. Refusal of reference under Section 3-H(4) of the Act would not leave Petitioners remediless. They can always file a civil suit claiming title in respect of the acquired land and claim a share in the amount of compensation. In the light of the above peculiar facts and circumstances of the present case, I am not inclined to interfere in the impugned order in exercise of jurisdiction under Article 227 of the Constitution of India. Consequently, the Petition must fail. It is accordingly **dismissed**. Dismissal of the Petition however shall not come in the way of Petitioners filing a Civil Suit claiming title in respect of the acquired land. Such suit shall be decided uninfluenced by any of the observations made by this Court in the present judgment.

(SANDEEP V. MARNE, J.)

28. After the judgment is pronounced, the learned counsel appearing for the Petitioners seeks continuation of interim order passed by this Court on 30 April 2024 by which this Court had stayed the disbursement of the compensation amount. Considering the facts and circumstances of the case, interim order shall continue to operate for a period of four weeks.

(SANDEEP V. MARNE, J.)

Digitally signed
by
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