



Pradnya

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12099 OF 2024

- | | | | |
|----|-------------------------------------|---|----------------|
| 1. | Pandurang Janu Mhatre |] | |
| | Age: 76 years, Occ: Agriculture |] | |
| 2. | Dayanand Janu Mhatre |] | |
| | (Since Deceased) |] | |
| | A. Nitin Dayanand Mhatre |] | |
| | Age: 47 years, Occ: Agriculture |] | |
| | B. Santosh Dayanand Mhatre |] | |
| | Age: 51 Years, Occ: Agriculture |] | |
| | C. Kishor Dayanand Mhatre |] | |
| | Age: 56 years, Occ: Agriculture |] | |
| 3. | Sangita Ankush Bhoir |] | |
| | Age: 53 year, Occ: Housewife |] | |
| 4. | Sunder Janu Mhatre |] | |
| | Age: 73 years, Occ: Agriculture |] | |
| 5. | Parshuram Janu Mhatre |] | |
| | Age: 64 years, Occ: Agriculture |] | |
| 6. | Ashok Janu Mhatre |] | |
| | Age: 60 years, Occ: Agriculture |] | |
| | All R/o of Bamandongri, Post Vahal, |] | |
| | Tal. Panvel, District Raigad |] | ...Petitioners |

VERSUS

- | | | | |
|----|-----------------------------|---|--|
| 1. | State of Maharashtra |] | |
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- | | | |
|-----------|---|---|
| | Through Department of |] |
| | Revenue and Forest Department. |] |
| 2. | District Collector, Raigad |] |
| | Through Deputy Collector |] |
| | Metro Center No.1, Panvel |] |
| | Tal. Panvel, Dist. Raigad |] |
| 3. | CIDCO |] |
| | Through Administrative Director, |] |
| | (Land Acquisition) 2 nd Floor, |] |
| | Cidco Bhavan, CBD Belapur, |] |
| | Navi Mumbai. |] |
- ...Respondents

APPEARANCES-**Ms Smita Gaidhani**, for the Petitioners.**Mr R. S. Pawar, AGP**, for the Respondent-State.

**CORAM : M.S.Sonak &
Jitendra Jain, JJ.**

DATED : 02 January 2025

ORAL JUDGMENT (Per MS Sonak J):-

1. Heard learned counsel for the parties.
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 Petitioners' properties were acquired under the provisions of the Land Acquisition Act of 1894 [Old Act]. An award was made on 7 July 2017 under Section 11 of the Old Act.

4. The Petitioners objected to the above award, including, inter alia, on the ground that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the “New Act”) ought to have been made applicable.

5. Considering the Petitioners’ objections, a reference was made under Section 18 of the Old Act to the District Court. The Petitioners have pleaded that these references are still pending before the District Court even though, according to the Petitioners, the District Court is no longer the Competent Court to decide any such references under the New Act.

6. Therefore, the Petitioners have instituted this Petition to seek the transfer of these pending references to the Competent Authority under Section 64 of the New Act.

7. Ms Smita Gaidhani, learned counsel for the Petitioners, relied on the decision of the Full Bench of this Court in **Pune Municipal Corporation vs. Rajeev L. Sangtani and others, Civil Revision Application No.316 of 2016, decided on 7 August 2019**, to submit that, under such circumstances, a reference must be made to the authority constituted under Section 51 of the New Act.

8. Mr R. S. Pawar, learned AGP, fairly accepts that the issue raised in this Petition is covered by the decision of the Full Bench referred to by the learned counsel for the Petitioners.

9. The Full Bench of this Court was called upon to consider the following issues transcribed in paragraph 2 of the judgment and order dated 7 August 2019:-

“2. The learned Single Judge of this Court, by judgment dated 19th October 2018, in the instant Civil Revision Application, has made the following reference to the Larger Bench for consideration :

(i) Whether under section 24(1)(b) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the land owner or any party seeking enhancement of claim of compensation can invoke the provisions of section 18 of the Land Acquisition Act, 1894 for seeking enhancement of claim of compensation even though the land acquisition award had been rendered under section 11 of the Land Acquisition Act, 1894 after 1st January, 2014 ?

OR

(ii) Whether any such person interested who has not accepted the award rendered after 1st January, 2014 declaring compensation under section 11 of the Land Acquisition Act, 1894 can seek reference by applying only to refer such claim to the Authority i.e. the “Land Acquisition Rehabilitation & Resettlement Authority” established under section 51 of the Act of 2013 ?”

10. The Full Bench recorded its conclusions in paragraphs 112, 113 and 114, which read as follows:-

“112. The upshot of aforesaid consideration and reasons, which we have indicated above, is that, in a case of land acquisition initiated under the provisions of the Old Act, where an award is to be made, after the enforcement of the Act, 2013, such an award shall be made under the provisions of the Act, 2013, and any claim, objecting to the award, shall be referred for determination to the Authority constituted under the Act, 2013, and not to the Court under the Old Act. We, therefore, affirm the correctness of the view recorded in the case of *Jairam Gangaram Burke* (Supra).

113. We, thus, record our conclusions as under :

114. (I) In a case of land acquisition proceedings initiated under the provisions of the Land Acquisition Act, 1894, where an award has been rendered under section 11 of the said Act, after the enforcement of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013,

i.e., 1st January 2014, any claim/application, objecting to the award shall be referred for determination to the Authority constituted under section 51 of the Act, 2013, in accordance with the provisions contained in section 64 of the Act, 2013, and not to the Court under the provisions of section 18 of the Act, 1894.

(II) In a case of land acquisition proceedings initiated under the provisions of the Land Acquisition Act, 1894, where no award has been made before the enforcement of the Act, 2013, the award shall be made under the provisions of the Act, 2013.”

11. By following the Full Bench, we now direct the learned Reference Court to transfer the pending references, i.e. LAR No.144 of 2017 and LAR No.386 of 2019, to the Competent Authority constituted under Section 51 of the New Act. Such transfer should be made within four weeks of an authenticated copy of this order being produced by the Petitioners or the Respondents before the learned Reference Court, i.e. the District Judge at Panvel. The Competent Authority must then dispose of these references following the law and on their own merits.

12. The Rule is accordingly made absolute in terms of prayer clause (b) of this Petition, which reads as follows:-

“(b) This Hon'ble Court, after perusal of the said records, be pleased to issue a Writ of Mandamus and/or any other appropriate Writ, Order or direction in the nature of Writ thereby directing the Learned District Judge Panvel to refer the applications filed by the Petitioners under section 18 of the Land Acquisition Act which are pending before the said Court as LAR No. 144 of 2017 and LAR No. 386 of 2019, to the Competent Authority in accordance with section 64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.”

13. There shall be no order for costs.

14. All concerned must act on an authenticated copy of this order.

(Jitendra Jain, J)

(M. S. Sonak, J)