



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13421 OF 2024

Sham Chhagan Nikumbh, through POA & Ors. ... Petitioners
Versus
The State of Maharashtra & Ors. ... Respondents

Mr. Nikhil M. Pujari for the petitioners.
Ms. Savita A. Prabhune, AGP for the State.
Ms. Chaitrali Deshmukh for respondent no. 4.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE: 3 November, 2025

P.C.

1. This petition under Article 226 and 227 of the Constitution of India is filed praying for the following substantive reliefs:

“a) Issue an appropriate writ/order quashing and setting aside the Award dated 09.06.2023 passed by respondent no. 3 in Award being no. 50 of 2017.”

2. It appears that the land in question was subject matter of acquisition for the 18 mtrs. DP Road for the benefit of the Municipal Corporation. The land acquisition proceedings ultimately culminated into an award dated 9 June, 2023, which according to the petitioners is illegal, as the rights of the petitioners are not recognized in the said award. On perusal of the proceedings, it appears that the claim of the petitioners is in regard to the land acquisition compensation. The petitioners contend that it is such right which ought to have been recognized in the award in question. In other words, the petitioners contend that the private

respondents could not have been awarded compensation. Thus, the dispute as raised in the petition effectively is in regard to apportionment of the compensation and/or the claim of the petitioners for the compensation in terms of what was granted by the award in favour of the private respondents.

3. The petitioners immediately on the publication of award, approached the Special Land Acquisition Officer by making a representation dated 13 July, 2023 as also, subsequent representations dated 6 September, 2023 and 21 September, 2023 were made to the Special Land Acquisition Officer. However, there was no response on the said representations nor any decision was taken to grant compensation to the petitioners is the petitioners' contention. In such view of the matter, another detailed representation was made to the Collector, Nashik, as also to the Deputy Collector No. 2, Nashik, a copy of which is annexed to the petition at Exhibit 'F'. However, even such representation/ application was not decided. In these circumstances, another application/representation was made by the petitioners on 15 April, 2024 to the Deputy Collector, Land Acquisition, which again was not decided. It is in these circumstances, the present petition has been filed.

4. A reply affidavit of Smt. Pallavi Sonyabapu Nirmal, Deputy Collector (Land Acquisition) No. 2, Nashik is filed to the petition. At the outset, the reply affidavit has raised an objection to the maintainability of this petition to contend that the present case involves issues of title and entitlement which are pure questions of fact on which evidence would be required to be led for determining such issues. Hence

such issues cannot be gone into the proceedings of a Writ Petition under Article 226 of the Constitution of India. It is urged that the petitioners on their contention on the apportionment of compensation and/or claim in respect of the compensation would have a statutory remedy of a reference being made to the appropriate authority as constituted under Section 51 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “**2013 Act**”) for adjudication under Section 64 of the 2013 Act, is the contention of Ms. Prabhune, learned AGP. In such context, our attention is drawn to the relevant paragraphs, which reads thus:

“14. I say that once the award is declared, any person interested and/or aggrieved may make an application for reference requiring the matter to be referred to the Authority. Such reference can be made with regard to disputes as to the amount of compensation, measurement of land or the person to whom the amount is payable. If the petitioners have any dispute or claim in respect of the said amount of compensation, then they should approach the competent authority in law and get their dispute resolved and also rightfully and legally claim the compensation amount. I say that the fact that the compensation amount is deposited with the authority established under the said act for disbursement of the compensation amount was informed to the petitioner vide letter dated 30.07.2024 copy of the said letter is annexed hereto as Exhibit-3.

15. I say that the office of the answering respondent has no objection if the petitioners claims full amount and receives it from the office of the authority appointed under section 51 of the said act. I say that however the office of the answering respondent is not competent to resolve any dispute pertaining to the apportionment of the compensation amount.”

5. Considering the complexion of the dispute, we are not inclined to delve into the merits of the petitioner’s case or for that matter on the case of the private respondents in relation to the claim for compensation in relation to the award in question, suffice it to observe that if the petitioners are asserting a right in the compensation as determined under the award and that such rights are denied

under the award, it is for the petitioners to assert such rights before the ‘appropriate authority’ constituted under the provisions of the 2013 Act. The appropriate authority under Section 64 of the 2013 Act has the jurisdiction to determine such issues. Also all the contentions of the private respondents in this regard would be required to be expressly kept open.

6. We are also informed at the bar that the amount of compensation is now deposited with the authority. The said authority as constituted under the 2013 Act would be now required to adjudicate on the compensatory claims of the petitioners as also the respondents in regard to the entitlement of compensation under the provisions of the said Act.

7. In the above circumstances, we are inclined to dispose of this petition in terms of the following order:

ORDER

(i) The applications/representations which are made by the petitioners shall be referred by the Special Land Acquisition officer/Sub-Divisional Officer (Land Acquisition) to the “Authority” as constituted under Section 51 of 2013 Act for adjudication of such applications under Section 64 of the 2013 Act. Let this exercise be undertaken within two weeks from today. The Authority shall accordingly adjudicate the petitioners’ application in accordance with law after hearing the petitioners and the original awardees under the award in question.

(ii) Until appropriate orders are passed on the rival contentions in regard to the entitlement of the concerned parties to the award

compensation, the Authority is directed not to disburse the compensation.

(iii) Let a decision on such application be taken as expeditiously as possible and in any event within a period of six months from the receipt of copy of this order.

(iv) All contentions of the parties in that regard are expressly kept open.

8. Disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)