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

WRIT PETITION NO. 15904 OF 2024

Shilpa Chandrakant Chaudhari ... Petitioner

District Collector (Land Acquisition) & ... Respondents
Ors.

**Mr Nitin Gaware Patil a/w Mr Divyesh K. Jain and Ms.
Dharani Divekar i/by Mr. Dhanraj Lodha, for Petitioner.
Mr Aditya Deolekar, AGP for Respondents.**

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

DATED : 24 APRIL 2025

PC:-

1. Heard learned counsel for the parties.
2. At the request of the learned counsel for the petitioner, leave is granted to formally challenge the order dated 11 July 2024 (Exhibit 'N'). Amendment to be carried out forthwith. Reverification is dispensed with.
3. Mr. Patil, learned counsel for the petitioner, points out that the averments in the entire petition support the challenge to the above order dated 11 July 2024. However, by inadvertence, no formal prayer was made for setting aside the above order. On perusing the petition, we find merit in Mr. Patil's contention and, therefore, we grant leave to amend.

4. Because of the amendment, we have heard Mr. Patil on merit of the challenge to the impugned order dated 11 July 2024. He submits that under Section 35 of the Maharashtra Industrial Development Act, 1961 ('MIDC Act'), the Collector cannot act like mere postman and refer any and every dispute that may be raised by the parties for determination of the Authority as defined under Section 2 (a-1) of the MIDC Act read with Section 3(f) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act'). He submits that in this case, the dispute of Mr. Parshuram Jadhav was restricted only to 14.40R, which would correspond to a compensation of approximately Rs.34 lakh. He further submits that without any application of mind and merely because some dispute was raised, the Collector has passed the impugned order referring the entire apportionment dispute to the authority. He relies on the ***Gautamsheth Kisan Wadve & Anr. Vs. Kisan Gangaram Kale & Ors.*** in Writ Petition (St.) No.1338 of 2020 decided by the Coordinate Bench of this Court on 29 July 2020 to support his contention.

5. Mr. Deolekar, learned AGP supports the impugned order based on the reasoning reflected therein. He points out that there was dispute, and even civil suits were pending. Therefore, this is not a case of non-application of mind, but this is an instance where the Collector has followed the mandate of Section 35 of the MIDC Act. Accordingly, Mr.

Deolekar submits that there is no case made out to entertain this petition.

6. The rival contentions now fall for our determination.

7. We have perused the impugned order, and we are unable to agree with Mr. Patil that this is a case of non-application of mind or that the reference has been made to the authority mechanically or acting as a postman.

8. The record shows that the property originally belong to Parshuram Jadhav. Parshuram Jadhav sold a portion to respondent nos.5 & 6, and in 2013, the petitioner purchased a portion from respondent nos.5 & 6.

9. Already there is a suit instituted by Parshuram Jadhav, regarding the sale of this property to which the petitioner and respondent nos.5 & 6 are parties. This is not some dispute raised only to block the receipt of compensation without there being any real dispute regarding apportionment.

10. Accordingly, we cannot say that the Collector has exercised discretion based on any irrelevant consideration or without application of mind. Typically, the Collector is not expected to decide the disputed issue of title or apportionment. Only if the dispute is found to be entirely frivolous and raised for any mala fide purposes of stalling the receipt of compensation by the party clearly entitled to the same can, discretion be exercised not to refer the matter to the authority. Even in such matters, the Collector would be

well advised not to rush with the disbursement of the compensation.

11. The Government, in the past, had issued a resolution on 18 November 2022 in which it was stated that the Collectors, Sub-Divisional Officers, Competent Authorities must not rush with the disbursement of the compensation in apportionment matters. Even after determination, assuming that these authorities are entitled to determine apportionment disputes, the orders must be served upon all the affected parties and within 4 weeks, no disbursements should be made. This gives the affected party sufficient opportunity to obtain judicial redress.

12. In any event, in the present case, the Collector has acted in accordance with law, and we see no good ground to interfere with the impugned order on the grounds raised and urged before us.

13. Insofar as Mr. Patil's contention about Parshuram Jadhav claiming interest only in 14.40 R of the acquired property is concerned, we cannot decide such issue in these proceedings given the contest. But we grant the petitioner liberty to apply before the authority for release of compensation over and above of Rs.34 lakh to the petitioner. If such an application is made, the authority is directed to decide the same following law after hearing all the parties. Such an application is directed to be disposed of expeditiously.

14. Learned counsel for the petitioner points out that in the impugned order, a reference has been made under Section 36(3) of the MIDC Act to ‘Court.’ Mr. Deolekar points out that regarding Sections 35 and 36 of the MIDC Act, w.e.f. 2019, references have to be made to the “Authority” and not the Court.

15. We have considered the provisions of Sections 35 & 36 of the MIDC Act. Up to 23 July 2019, references had to be made to the Court. However, vide amendment introduced by the Maharashtra Act no. 27 of 2019 which entered force on 23 July 2019, reference has to be made to the “Authority” as defined under Section 2(a-1) of the MIDC Act read with Section 3(f) of the 2013 Act. Accordingly, the impugned order dated 11 July 2024 is formally modified, and the expression “Hon’ble Civil Judge” is directed to be substituted with “Authority.” This position is only clarified given the amendment to the statute effective from 23 July 2019.

16. If the amount in dispute has not already been transferred, the collector must transfer it to the authority. If it is transferred to the Court, the Collector must take steps to ensure that it is re-transferred to the authority. This exercise must be completed within two months of today. The authority must ensure that this amount is invested in a nationalised bank so that this party receives it with interest. This direction is consistent with Section 37 of the MIDC Act.

17. This petition is disposed of in the above terms without any costs order. We do not deem it necessary to issue any notices to private parties because we have made no orders prejudicing the interests of the private parties. In fact, we have upheld the impugned order. Therefore, we clarify that we have not examined any of the rival contentions regarding title, apportionment, etc., and all contentions of all parties are left open for the authority's decision.

18. All concerned to act on the authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)