



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4211/2019

Trambak Bapurao Umale and Ors. Vs. The State of Maharashtra and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. P. S. Kshirsagar, Advocate for Petitioners.
Ms K. H. Bhondge, A.G.P. for Respondent Nos.1 to 3/State.

CORAM : NITIN W. SAMBRE AND
MRS.VRUSHALI V. JOSHI, JJ.

DATED : 13/02/2025.

. Heard.

2. As far as prayer Clauses 1 and 2 are concerned, the same are not pressed. Hence, the petition to that extent stands dismissed.

3. In the case in hand, Section 4 Notification claims to have been issued on 25.01.2012 whereas the award was delivered on 23.01.2015. Since the award is delivered subsequent to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (the Right to Fair Compensation Act, 2013 for short)) being given effect from 01.01.2014, it is the case of the petitioners that they are entitled for the valuation as per the new Act and not as per the valuation calculated on the date of Section 4 Notification dated 25.01.2012.

4. Mr. Kshirsagar, learned Counsel so as to substantiate aforesaid contentions has invited our attention to paragraph Nos.12, 13 and 14 of the judgment in *Writ Petition No.13072/2018 decided on 26.07.2024 [Bhagwat Tukaram Shelke & Ors. Vs. The State of Maharashtra and*

Ors.]. He would claim that the respondent – Competent Authority/Land Acquisition Officer is required to be directed to reconsider the matter and declare the award afresh by calculating the amount of compensation to be paid to the petitioners by treating reference date for calculation of market value as 01.01.2014.

5. As against above, the learned Assistant Government Pleader for the respondents would urge that once the notification is issued on 25.01.2012, the Land Acquisition Act of 1894 contemplates the valuation to be carried out as on the date of Section 4 Notification. According to her, after the award is passed, this Court should be slow in exercising extraordinary jurisdiction so as to modify the award thereby permitting the enhance compensation as has been claimed and as such sought dismissal.

6. We have heard the submissions.

7. It is brought to our notice from the record that on 25.01.2012, Section 4 Notification under the provisions of the Land Acquisition Act, 1894 came to be issued.

8. However, the award came to be passed on 23.01.2015 under the Right to Fair Compensation Act, 2013.

9. In such an eventuality, the award was passed after 01.01.2014 i.e. the date on which the Right to Fair Compensation Act, 2013 was given an effect. In such an eventuality, rightly so claimed by the learned Counsel for the petitioners that the valuation should have been carried

out as on 01.01.2014 viz. the date of notification of the Right to Fair Compensation Act, 2013, based on which, the award was delivered on 23.01.2015.

10. On our aforesaid view, we are fortified with the observations of Division Bench referred to in the matter of Bhagwat Shelke (*cited supra*), the relevant paragraph Nos. 12, 13, 14 and 15 are worth referring to, which reads thus :

“12. The question is, thus, as to what should be the reference date for the purpose of determining the market value of the land in terms of Section 26 of the Act of 2013.

13. On account of some ambiguity, the State Government sought a clarification in this regard, which was duly replied with by the Central Government by Demi Official letter dated 26/10/2015. The relevant query and the clarification given finds mentioned at Sr.No.3 of the letter dated 26/10/2015, which is extracted hereinbelow :

<i>Issue raised by the Government of Maharashtra</i>	<i>Opinion of the DoLR</i>
<i>For calculation of market value, under Section 24(1)(a), reference date should be 01/01/2014 (commencement of RFCTLARR Act, 2013) or date of issuing preliminary notification under Land Acquisition Act, 1894 ?</i>	<i>The reference date for calculation of market value, under Section 24(1)(a) should be 01/01/2014 (commencement of RFCTLARR Act, 2013), as the Section reads “in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply. Under Section 26 reference date is date of preliminary notification, but Section 24 is a special</i>

	<i>case of application of the Act in retrospective cases, and a later date of determination of market value is suggested (i.e. 01/01/2014) with a view to ensure that the land owners/ farmers/ affected families get enhanced compensation under the provisions of the RFCTLARR Act, 2013 (as also recommended by Standing Committee in its 31st report).</i>
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14. *It is also not in dispute in this case that while passing the award dated 26/3/2016, the reference date for the purpose of calculation of compensation in terms of Section 26 of the Act of 2013 has been taken to be the date on which the Notification under Section 4(1) was issued, namely 2/7/2009 and not 1/1/2014 which is the date of commencement of the Act of 2013. Such a course adopted by the authority which made the award dated 22/3/2016, in our opinion, cannot be sustained in law. Our view in this regard is supported by Division Bench judgment of this Court in **Namdeo Apparao Chate & Others (supra)**. Similar view has been taken by a Division Bench of Hon'ble Allahabad High Court in its judgment dated 7/4/2022, passed in **Writ Petition No.30088/2022 (Smt. Sabita Sharma And 2 Others Vs. State of U.P. And 2 Others)**.*

15. *In view of the aforesaid, the Writ Petition is partly allowed. The award dated 22/3/2016, so far as it relates to the Petitioners, is hereby quashed. The Competent Authority/ Special Land Acquisition Officer is directed to reconsider the matter and declare the award afresh, and while doing so, he shall calculate the amount of compensation to be paid to the Petitioners by treating the reference date for calculation of market value as 1/1/2014. The compensation in terms of the fresh award to be made as per observations made in this order shall be paid to the Petitioners forthwith."*

11. As the award is passed post 01.01.2014 i.e. the date on which the Right to Fair Compensation Act, 2013 was notified, we deem it appropriate to allow the petition thereby directing the respondents viz. the acquiring body and the Land Acquisition Officer to reconsider the matter and pass a fresh award by calculating the amount of compensation to be received by the petitioners by treating the reference date for calculation of market value as on 01.01.2014 i.e. the date on which the Right to Fair Compensation Act, 2013 was notified.

12. The Land Acquisition Officer shall pass an award in the backdrop of the aforesaid observations within a period of three months from the date of production of this order.

13. Once the award is passed, the acquiring body shall release the compensation through the Land Acquisition Officer within a period of three months thereafter.

14. The petition, as such, stands allowed in above terms.

(MRS. VRUSHALI V. JOSHI, J.) (NITIN W. SAMBRE, J.)