



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

WRIT PETITION NO. 5181 OF 2022

<u>PETITIONER</u>		Shri. Mahadeo S/o Sukhdeo Rokade, Aged about 67 years, Occupation: Agriculturist, R/o. Dhadi, Post Mamulwadi, Tah. Nandura, Distt. Buldhana.
<u>VERSUS</u>		
<u>RESPONDENTS</u>	1.	The Collector / Land Acquisition Officer, (Medium Project) Buldhana, District Buldhana.
	2.	Bhimrao S/o Sitaram Rokade, Aged Major, Occu. Agriculturist,
	3.	Bebibai Bhimrao Pawar, Aged Major, Occu. Household,
Deleted as per Courts Order dated 09.06.2025	4.	Bhagrathabai Sitaram Kokade, Aged Major, Occu Household, Nos.2 to 4 R/o. Taka, Tah Nandura, District – Buldhana.
	5.	Kunda Dnyaneshwar Kharate, Aged Major, Occu. Household,
	6.	Jyoti Purushottam Jane, Aged Major, Occu. Household,
	7.	Duryodhan Janrao Bathe, Aged Major, Occu. Agriculturist,

	8.	Usha Manohar Gawande, Aged Major, Occu. Household,
	9.	Manda Kesharao Bathe, Aged Major, Occu. Household,
	10.	Ramrao Janrao Bathe, Aged Major, Occu. Household,
	11.	Sunanda Omprakash Bathe, Aged Major, Occu. Household,
	12.	Anjana Keshao Bathe, Aged Major, Occu. Household,
	13.	Sau. Sulochanabai Janardhan Gawande, Aged Major, Occu. Household,
	14.	Vatsala Shyamrao Bathe, Aged Major, Occu. Household,
	15.	Harsha Ashok Mankar, Aged Major, Occu. Household,
	16.	Ashish Shyamrao Bathe, Aged Major, Occu. Agriculturist,
	17.	Gajanan Shyamrao Bathe, Aged Major, Occu. Agriculturist,
	18.	Varsha Jagdish Ghate, Aged Major, Occu. Household,
	19.	Bhaskar Haribhau Dhoran Aged Major, Occu. Agriculturist,

	20.	Dnyaneshwar Haribhau Dhoran, Aged Major, Occu. Agriculturist, Nos.5 to 20 all R/o.Dhadi, Post Mamulwadi, Tah. Nandura, District - Buldhana.
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Mr. Ram D. Karode, Advocate for petitioner

Mr. S.V. Narale, AGP for Respondent No.1

Mr. S.S. Shingane, Advocate for Respondent Nos.2, 5 to 20

Mr. S.D. Chande, Advocate with Mr. Sunil Kulkarni, Advocate for Respondent No.3

CORAM: SACHIN S. DESHMUKH, J.

Date of reserving the judgment : 12/08/2025

Date of pronouncing the judgment : 26/08/2025

JUDGMENT :

Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. The notice under Section 13(2) of the Maharashtra Project Affected, Rehabilitation Act, 1999 (In short, Act of 1999) was issued in relation to declaration of areas affected or benefited zones for the project namely “Jeegaon” project of Tahsil Nandura, District Buldhana in the year 2002, calling upon the objections in relation to the subject land. While raising objection belatedly in that regard the petitioner presented objection in the year 2022. In the process, it was submitted that although the sale deeds are executed way back in the year 1965, vis-a-vis, 1967 by the grand-father of the petitioner, however, the

mutation entries stands in the name and the petitioner has availed loan from a co-operative credit society as against the subject land. The further objection of the petitioner is that the entries in 7/12 extracts are also on the basis of the forged documents and the petitioner intends to file civil suit questioning those sale deeds. While purchasing the vehicle the subject properties are mortgaged with the credit society, as such, objected by presenting an objection under Section 77 of the Act of 2013.

3. While resisting the objection the respondent Nos.5 to 20, submitted that same is unfounded since the sale deeds are executed in the year 1965 and 1967 by the grand-father of the petitioner herein and on the basis of the same, those respective purchasers are put in possession, as such, the objection is raised with an ulterior motive. Therefore, deserves no consideration. The competent authority has considered the issue in its entirety and more particularly the registered sale deeds which have presumptive values. It is further submitted that the competent authority has not passed any prohibitory order nor the sale deeds are canceled.

4. Aggrieved by the order of the competent authority, the petitioner is before this Court with a plea that once an objection is raised under Section 64 of the Act of 2013, it has to be referred to the

competent Court, without considering the nature of objection. In the process, the learned counsel for the petitioner has placed reliance on the order of this Court in *Writ Petition No. 5726/2024, Sarangdhar S/o Gopal Gyar Vs. Collector, Buldhana and others*, and the judgment of the Hon'ble Andhra High Court recorded in *AIRONLINE 2024 AP 614, S.T.V. Ramanujachari Vs. S.T.V. Sampath Kumar*.

5. Per contra, Mr. S.S. Shingane, learned counsel for the respondent No.2 and 5 to 20 and learned Assistant Government Pleader has supported the order and submitted that attempt of the petitioner herein is to deprive the respondent to receive the amount of compensation to which the respondents are lawfully and legitimately entitled in the wake of their ownership over the subject properties. Attempt is to generate the dispute which needs to be deterred and deprecated. The dispute is not genuine since the registered sale deeds are executed in the years 1965 and 1967 respectively in relation to subject land and there is no challenge at any point of time. Even the notification is of the year 2002 and for the first time, after the unexplained and inordinate delay, objection is presented in the year 2022. Consequently, the competent authority has taken into account the absence of genuineness in the objection and has rightly passed the order, as such, requested to dismiss the petition. In the process, Mr. Shingane, learned counsel has placed its reliance on the judgment of

the Hon'ble Supreme Court reported in *1966 AIR (SC) 237, G.H. Grant Vs. State of Bihar; 2003(2) ALL MR 319, Sharda Devi Vs. State of Bihar; 2005(4) Mh.L.J. Sayed Mohamed Shah Abdul Hamid Kadri Vs. State of Maharashtra and another* and order of the Division Bench of this Court in *Writ Petition No. 6218/2022, Shrikrushna S/o Shivshankar Chambhare (Patil) and another Vs. The State of Maharashtra & others and 2023 DGLS (Bom.) 188 Anjanabai W/o Anna Thorat Vs. Dilip Baliram Khandare and others*, to contend that the competent authority has discretion to determine whether there exists a dispute, which is required to be referred by applying mind to the material placed before the concerned authority.

6. The authority can always decide whether there exists a dispute which is required to be referred. Considering the attempt of the petitioner herein to generate the dispute in relation to the sale deeds which are of the years 1965 and 1967 respectively. As such, the rights of the respondents are absolute. Even an objection to notice of the year 2002 is raised with an unexplained delay of almost 20 years deserves to be deprecated by endorsing the order rendered by the competent authority. It is also submitted that the suit which was filed subsequently by the petitioner herein is also dismissed for want of prosecution.

7. Having heard the respective counsels, the issue which deserves

to be considered is whether the objection really exists and is required to be referred to the Civil Court. Considering the fact that the sale deeds executed by the grand-father of the petitioner are of the years 1965 and 1967 respectively and there is no challenge at any point of time, the registered sale deeds have its own presumptive values and are still intact. Those cannot be brushed aside merely by presenting an objection after an inordinate delay of almost 20 years. The Notification is of the year 2002, whereas, the objection is for the first time presented in the year 2022. Undoubtedly, the competent authority has discretion to refer the dispute provided it appears to be genuine one. The said principle has been restated by the Hon'ble Apex Court while considering the scope and ambit of Section 30 of the provisions of the Act of 1894. Equally, the Hon'ble Supreme Court in case of *Sharda Devi Vs. State of Bihar* (supra) looking to the nature of the dispute raised, the person who is raising the dispute, has held that the delay can be taken into consideration by the Collector while exercising the discretion before referring the issue. This Court in the case of *Sayed Mohamed Shah Abdul Hamid Kadri Vs. State of Maharashtra* (supra), has restated the discretion of the authority to refer such dispute to the decision of the Court, if necessarily there is a dispute arising, the Land Acquisition Officer can exercise the power under Section 30 of the Act and the dispute should be in relation to

the apportionment of the compensation between the person interested. The Land Acquisition Officer is expected to decide the apportionment of the compensation amongst the person interested, to look into the rights of interested person in relation to the land sought to be acquired and based on such rights to decide about the apportionment of compensation in order to ascertain rights of the person interested. There has to be an application of mind by the Land Acquisition Officer to the claim put-forth by the interested person. Equally this Court in the case of *Anjanabai W/o Anna Thorat Vs. Dilip Baliram Khandare* (supra) has aptly considered the scope of Section 77 of the Act, which is reproduced herein below.

“10. Section 77 of the Act of 2013, also uses the phrase “or if there be any dispute as to the title to receive the compensation or as to the apportionment of it”. This language therefore would indicate that the job of the Land Acquisition Officer is not that of a postman, but entails an application of mind to the material placed before him, to determine whether there indeed exists a dispute which requires to be referred. The Land Acquisition Officer in cases where he finds that the objection raised is spurious, moonshine, or absolutely without any basis, can always hold so and refuse to refer the dispute in light of the specific language under Section 77(2) which grants him the power to refer, “If there be any dispute”, which requires him to apply his mind and at least prima facie hold a dispute exists or not.

11. It is thus apparent that in order to determine whether there is a dispute or not, the mere filing of an objection or an application, is not sufficient and such a claim, which intends to raise a dispute, putforth by the interested person has to be substantiated by them with necessary material in that regard in support of such objection. It is not a mere objection for the sake of objection that would empower the respondent No. 3 /

Land Acquisition Officer to blindly exercise powers under Sections 76 and 77(2) of the Act as that would result in spurious claims being entertained without any rhyme or reason, thereby defeating the claims of genuine persons.”

8. The reliance placed by counsel for petitioner in the case of ***Sarangdhar S/o Gopal Gyar Vs. Collector, Buldhana*** (supra), wherein the Division Bench of this Court has rather endorsed the determination done by the Deputy Collector in relation to genuineness of the will between the litigating side. Resultantly, held that the dispute was rightly referred to the Civil Court for its adjudication. As such endorsed the discretion exercised with the authority vested by virtue of Section 77 of the Act to consider whether the dispute is genuine and same requires to be referred to the Civil Court for its adjudication. As such the said judgment is of no assistance to the petitioner in any manner.

9. Thus the fallacy in the claim of the petitioner is evident from the fact that the sale deed executed by the petitioner’s grandfather is of the years 1965 and 1967. The registered sale deeds have presumptive value and those are intact even today. Nevertheless the fact remains that the notice so issued by the authority calling the objection of the year 2002, which is objected by the petitioner in 2022, which is certainly by way of an after thought. While presenting an application, it was for the petitioner to put-forth its claim which

can be regarded as genuine one. Nevertheless the civil suit filed after raising the objection, is not prosecuted by the petitioner resulting into dismissal of suit in default. These events sufficiently establishes the fact that the attempt of the petitioner is to create dispute, which never existed, much less a genuine one. The competent authority has discretion to determine whether there exists a dispute remitting reference. These peculiar facts and circumstances have been properly considered by the authority in its proper perspective while noting the fallacy on the part of the petitioner to raise an objection and eventually rejected by taking into account the absence of genuine dispute. Resultantly, no error could be noted in the order of the authority while rejecting the objection. As such no case is made out to interfere in the order under challenge. Resultantly, the petition is dismissed. No order as to costs.

Rule is discharged.

(SACHIN S. DESHMUKH, J.)

MP Deshpande