



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.8834/2013

Sharda Rajendra Gaikwad & others.
...Petitioners..

Versus

The State of Maharashtra & others.
...Respondents...

.....

Shri A.B. Kale, Advocate for petitioners.
Shri P.P. More, AGP for respondent nos.1 to 3.
Shri P.D. Suryawanshi, Advocate for respondent nos.4 & 5.

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**CORAM: B.P. DHARMADHIKARI &
A.M. BADAR, JJ.**

DATE: 18.11.2014

ORDER :

- 1] Heard Shri A.B. Kale, Advocate for petitioners, Shri P.P. More, AGP for respondent nos.1 to 3 and Shri P.D. Suryawanshi, Advocate for respondent no.4.
- 2] Perused reply affidavit.
- 3] Petitioners claim that possession of 0.36 Aares land out of Gut No.209 belonging to them was taken for construction of public road in 1991 by private negotiations and accordingly road has been constructed.



- 2 -

However, they are not being paid compensation. When petitioners made representation, the award has been passed on 30.8.2013. As per award, the cost of land is worked out at Rs.1,22,83,603/-.

4] Learned counsel appearing for respondent nos.4 & 5 is relying upon reply affidavit. He submits that from 1991 till 2006, petitioners deliberately observed silence and thereafter have raised a stale claim in collusion with revenue authorities. The land on which road has been constructed was always recorded as Government land and for Government cart road in revenue records. It was, therefore, never necessary to acquire that land. It is submitted that in this situation, the award obtained by petitioners is by playing fraud and, therefore, this Court should not take cognizance of that award.

5] Learned AGP submits that reply of respondent nos.4 & 5 has not been served upon his office and, therefore, respondent nos.1 to 3 were not aware of the relevant developments or the plea of respondent nos.4 & 5 about fraud. He states that respondent no.3 alone has filed reply pointing out the steps taken i.e. Section 4 notification, Section 6 notification and then delivery of



- 3 -

award.

6] We find that though land has been acquired way back in 1991 (as alleged), respondent no.3 has shown January 2012 as the date of Section 4 notification and accordingly saledeeds executed in 2006 onwards up to May 2012 have been looked into. On the basis of these saledeeds and the fact that land is included in Municipal limits and adjacent land is being used for N.A. purposes, valuation has been worked out. Rate of adjacent land in ready reckoner has been used to arrive at compensation.

7] The observations made by us above may reveal some lacunae. Apparently when possession was taken in 1991, question is whether that land was included in Municipal limits. Other question will be whether at that time, adjacent land had any N.A. potential. Third question is, if rate prescribed for N.A. land in ready reckoner is to be used, whether plotable area has been worked out and any deduction in accordance with law has been made. It is to be noted that in appropriate cases, deduction upto 60% of the rate worked out can be effected as per judgments of Hon'ble Apex Court.

8] We, therefore, find substance in contention of



- 4 -

respondent nos.4 & 5 that respondent nos.2 & 3 may have played fraud upon respondent no.1 in the matter. We direct respondent no.2 - Collector to immediately look into the matter and to file his personal affidavit without fail by 01.12.2014. If the affidavit is not filed as directed, the Collector shall arrange to file an affidavit giving reasons therefor on said date.

9] The concerned Deputy Collector / Special Land Acquisition Officer, whether in service or retired, shall also remain present before this Court on said date and it shall be personal responsibility of respondent no.2 to see that said officer remains present in this Court on the said date.

10] Office to issue authenticated copy of the order to the parties on demand.

11] S.O. to 01.12.2014.

(A.M. BADAR, J.)

(B.P. DHARMADHIKARI, J.)