



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH AT NAGPUR

WRIT PETITION No.3825/2017

Agricultural Produce Marketing **PETITIONER**
Committee, Nagpur, through its the Deputy
Secretary (Incharge)
Prashant s/o Dinkarrao Nerkar,
Aged about 50 years, Occ. Service,
R/o C-101, Anurag Apartment,
Dharampeth Extn. Nagpur – 440 010

Vs.

1. The State of Maharashtra, : **RESPONDENTS**
Through its Secretary, Department of Town
Planning, Mantralaya, Mumbai-32
2. The Deputy Collector, Land Acquisition
(General), Nagpur having Office at
Collectorate Compound, Civil Lines,
Nagpur
3. Sau. Anusayabai W/o Gulabrao Sakharkar,
Aged Major, Occ. Household,
R/o Somalwada, IInd Bus Stop, Wardha
Road, Nagpur – 440025
4. Shri Ruprao Pandurang Sakore,
Aged Major, years
R/o Dahegaon Joshi, Tah. Parshivani,
District Nagpur 441125
5. Shri Maroti s/o Pandurang Sakore,
Aged Major,
R/o Dahegaon Joshi, Tah. Parshivani,
District Nagpur 441125
6. Smt. Pushpa Bhaurao Balpande,
Aged Major,
R/o Dahegaon Joshi, Tah. Parshivani,
District Nagpur 441125
7. Smt. Sarubai Pandurang Sakore,
Aged Major,
R/o Dahegaon Joshi, Tah. Parshivani,
District Nagpur 441125



8. Smt. Kusumbai Shyamraoji Gaydhane,
Aged Major,
R/o Binaki Mangalwari, Nagpur
440004
9. Smt. Devki Dilip Yenurkar
Aged Major,
10. Smt. Shobha Vijay Waghmare,
Aged Major
11. Smt. Shobha Vijay Waghmare,
Aged Major,
Respondent Nos. 9 to 11 through their
Power of Attorney – Shri Sanjay
Gulabrao Sakharkar,
R/o Somalwada, Second Bus Stop,
Wardha Road, Nagpur – 440 025

Mr.M.V. Samarth, Senior Advocate with Mr. VM. Gadkari, Adv. for Petitioner
Mr. S.S. Doifode, Addl. GP for Respondent Nos.1 and 2
Mr. PS. Chawhan, Advocate for Respondent Nos.4 to 11

**URMILA JOSHI PHALKE AND
NIVEDITA P. MEHTA, JJ.**

Date of reserving the judgment : 20.04.2023
Date of pronouncing the judgment : 29.04.2026

JUDGMENT (PER : NIVEDITA P. MEHTA, J.)

1. By the instant petition, petitioner - Agricultural Produce Market Committee, Nagpur is seeking a direction to quash and set aside the Award dated 01.12.2015, passed by the respondent No.2 – Deputy Collector, Land Acquisition (General), Nagpur in favour of the respondent Nos. 3 to 11 to the extent that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (In short, “the Act of 2013”), applies to the land bearing Survey No. 114/1A, admeasuring 1.72 HR, situated at Mouza Chikhli (Deosthan), Tahsil and District Nagpur i.e. the land



owned by respondent Nos.3 to 11. Further, the petitioner has sought direction against the respondent No.2 to calculate the compensation due and payable to the respondent Nos.3 to 11 as per the procedure laid down in the unamended provision of Section 126 of the Maharashtra Regional and Town Planning Act, 1966 (In short, the MRTP Act, 1966), by applying the provisions of the old Land Acquisition Act, 1894 (In short, Act of 1894). It was pointed out that the petitioner had filed a Regular Civil Suit No. 154/2026 before the learned Civil Judge, Senior Division, Nagpur with similar prayer as of present petition. The learned Senior Counsel for the petitioner had made a statement that the petitioner will withdraw the suit. The said fact was recorded in order dated 17.04.2026. It is pointed on 20.04.2026 that the suit was withdrawn by the petitioner.

2. The brief facts of the case are that the petitioner is a statutory body constituted under the provisions of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (In short, the Act of 1963) and is entrusted with regulation of agricultural produce markets within its jurisdiction at Nagpur Tahsil. It is the case of the petitioner that the land bearing Survey No. 114/1A, admeasuring 1.72 HR, situated in Mouza Chikhli (Deosthan) Tahsil and District Nagpur (hereinafter referred to as “the subject land”), came to be reserved for the purpose of development and extension of petitioner – committee by Notification dated 21.09.2001, issued under Section 126 of the MRTP Act, 1966.



Pursuant thereto, the petitioner submitted a proposal dated 09.12.2009, to the Collector, Nagpur, seeking acquisition of the subject land. The Collector, thereafter, authorized the respondent No.2 to undertake the acquisition proceedings in accordance the provisions of the Act of 1894.

3. After taking requisite steps including joint measurement of the subject land, a Notification dated 23.07.2013 came to be issued under Section 126(4) of the MRTP Act, 1966 read with Section 6 of the Act of 1894, proposing acquisition of the subject land. The said Notification was duly published in the Official Gazette on 08.08.2013 as well as in newspapers on 05.08.2013. Thereafter, notices under Section 9(1)(2) of the Act of 1894 were issued to the land owners calling upon to submit their claims.

4. According to the petitioner, respondent no. 3 – 11 submitted representations *inter-alia* on 17.01.2014 seeking determination of compensation in accordance with the provisions of the Act of 2013. The respondent No.2 by the impugned Award dated 01.12.2015, accepted the said request and proceeded to determine the compensation by applying the provisions of the Act of 2013. It is the grievance of the petitioner that such application of the Act of 2013 has resulted in determination of substantially higher compensation in favour of the respondent Nos.3 to 11, which, according to the petitioner, is contrary to the statutory scheme governing the acquisition initiated under Section 126 of the MRTP Act, 1966 read with the provisions of the Act of 1894.



Submissions of the petitioner :

5. Mr. M.V. Samarth, learned Senior Counsel assisted by Mr. V.M. Gadkari, learned Counsel for the petitioner submitted that the impugned Award is vitiated on account of non-application of mind and misapplication of the governing statutory provisions. It is submitted that the acquisition proceedings in the present case were initiated under Section 126 of the MRTP Act, 1966 read with the provisions of the Act of 1894 and, therefore, determination of the compensation ought to have been carried out strictly in accordance with the provisions of the Act of 1894, as applicable on the date of initiation of acquisition proceedings. It is further submitted that the crucial date for determining the applicable law is the date on which the proposal for acquisition was initiated and the statutory process commenced. In the present case, the proposal for acquisition having been submitted on 9.12.2009 and the declaration under Section 6 of the Act of 1894 having been issued on 23.07.2013, the provisions of the Act of 2013 could not have been invoked.

6. The learned Senior Counsel further submitted that the amendment to Section 126 of the MRTP Act, incorporating the applicability of the Act of 2013 came into force only in December, 2015, and the same operates prospectively. It was, therefore, contended that the said amendment could not have been applied to the present acquisition proceedings which had already been initiated and substantially progressed under the unamended statutory regime. Thus,



it was further contended that the application of the Act of 2013 by the respondent No.2 in the present case is wholly unsustainable in law and the same has resulted in unjustifiable escalation of compensation payable to the respondent Nos. 3 - 11.

7. It was pointed out that the petitioner has deposited an amount of Rs. 16,70,42,188/- under protest pursuant to the impugned Award. On these premises, the petitioner seeks quashing of the impugned Award to the extent of application of the provisions of the Act of 2013 and also seeks a direction for re-determination of the compensation in accordance with the provisions of the Act of 1894. In support of these submissions, the learned Senior Counsel for the petitioner has relied upon the following judgments:

- I. **Mehtab Laiq Ahmed Shaikh and another Vs. State of Maharashtra and others, 2017(6) Mh.L.J. 408;**
- II. **Hanumanrao Morbaji Gudadhe and others Vs. State of Maharashtra and others, 2015(6) Mh.L.J. 127; and**
- III. **U.P. Awam Evam Vikas Parishad Vs. Gyan Devi (Dead) By LRs. and others, (1995) 2 SCC 326.**

Submissions on behalf of respondent No.2 :

8. Mr. S.S. Doifode, learned Additional Government Pleader, appearing for respondent No.2, has vehemently opposed the petition and supported the impugned Award dated 1.12.2015. He submitted that the determination of compensation under the



provisions of the Act of 2013 is in consonance with the statutory mandate contained in Section 24(1)(a) thereof. It was submitted that though the acquisition proceedings were initiated under Section 126 of the MRTP Act, 1966 read with the provisions of the Act of 1894, admittedly no award under Section 11 of the Act of 1894 had been passed prior to 01.01.2014. In such circumstances, by virtue of Section 24(1)(a) of the Act of 2013, all provisions relating to determination of compensation under the Act of 2013 are required to be applied.

9. It was further submitted that the Act of 1894 stood repealed by Section 114 of the Act of 2013 and the transitional provision under Section 24 governs all pending acquisition proceedings where no award had been passed prior to the commencement of the Act of 2013. In this regard, reliance was placed on the Government Circular dated 09.05.2014 issued by the State Government directing application of the provisions of the Act of 2013 in such cases.

10. The learned Counsel further submitted that the contention of the petitioner that the provisions of the Act of 2013 were applied merely on the basis of representations made by the respondent Nos.3 to 11 is factually incorrect and stands specifically dealt with in paragraph No. 9 of the impugned Award



by rejecting the same.

11. He further submitted that in the present case, the subject land, came to be acquired pursuant to the Notification dated 21.09.2001 issued under Section 126 of the MRTP Act. After following due procedure of law, including issuance of declaration under Section 126(4) of the MRTP Act read with Section 6 of the Act of 1894 and notices under Section 9 thereof, the impugned Award dated 01.12.2015 came to be passed determining compensation of Rs.15,75,86,970/- payable to respondent Nos.3 to 11. It was also submitted that after issuance of notices under Section 12(2) of the Act of 1894, the said respondents received the compensation on 11.03.2016 and possession of the acquired land was handed over to the petitioner on 02.02.2016 through Tahsildar, Nagpur.

12. In the aforesaid backdrop, it is submitted by the learned Counsel that the determination of compensation under the Act of 2013 has been carried out strictly in accordance with the statutory mandate contained in Section 24(1)(a) of the said Act as well as the Government Circular dated 09.05.2014. The impugned Award does not suffer from any illegality or infirmity and deserves to be upheld.



Submissions on behalf of the respondent Nos. 4 to 11 :

13. Mr. P.S. Chawhan, learned Counsel appearing for the respondent Nos.4 to 11, supported the impugned Award and adopted the submissions advanced on behalf of respondent No.2. He submitted that the determination of compensation under the provisions of the Act of 2013 is in accordance with the statutory mandate and does not call for interference.

14. He further submitted that the reliance placed by the petitioner on the judgment reported in *Hanumanrao Morbaji Gudadhe* (supra) was rendered in the context of the unamended provisions of Sections 125 and 126 of the MRTP Act, 1966, wherein the provisions of the Act of 1894 were expressly incorporated. A perusal of paragraph 12 of the said judgment would indicate that there was no reference to the provisions of the Act of 2013. It was, therefore, submitted that, in the absence of any reference to the Act of 2013, there was no occasion to read the provisions of the said Act into Sections 125 and 126 of the MRTP Act. In that context, it was held that Section 24 of the Act of 2013 would not apply to acquisitions undertaken under Section 126 of the MRTP Act.

15. The learned Counsel further submitted that the judgment in *Mehtab Laiq Ahmed Shaikh and another* (supra) is concerned with the issue of lapsing of acquisition proceedings under Section 24(2) of the Act of 2013 and does not deal with the determination of compensation under Section 24(1)(a) thereof.



He vehemently contended that the controversy in the present case pertains to the determination of compensation in a pending acquisition where no award had been passed prior to 01.01.2014, and not to the lapse of acquisition proceedings. In that view of the matter, the ratio of the aforesaid judgment does not apply to the case in hand.

16. The learned Additional Government Pleader further contended that the amendment to Sections 125 and 126 of the MRTP Act, 1966 came on 29.08.2015 and the award in the instant case is passed on 01.12.2015. Hence in absence of any mechanism mentioned in the MRTP Act regarding the compensation and Awards, the provisions of Sub-Section (1) of Section 24 would come in play making the act of passing of the Award by applying the multipliers of the new Act just, proper and perfectly legal. It was submitted that the amendment to Sections 125 and 126 of the MRTP Act, which came into force on 29.08.2015, only clarifies the legal position and in any event, the applicability of the Act of 2013 in the present case flows directly from Section 24 thereof.

Therefore, the learned Counsel contended that the impugned Award having been passed in accordance with the provisions of the Act of 2013 is legal and valid. In support of his contentions, he relied on the following judgments:

- I. **Santosh Kumar and others Vs. Central Warehousing Corporation and another (1986) 2 SCC 343;**



- II. **Satish Kumar Gupta and others vs. State of Haryana and others (2017) 4 SCC 760;**
- III. **Girnar Traders (3) Vs. State of Maharashtra and others with Digambar Motiram Jadhav Vs. Commissioner and others, (2011) 3 SCC 1.**

Analysis and Conclusion :

17. We have heard the learned Senior Counsel for the petitioner, learned Additional Government Pleader for respondent Nos. 1 and 2 and learned Counsel for respondent Nos. 4 to 11 and perused the material placed on record.

18. The principal issue that arises for consideration is whether the provisions of the Act of 2013 are applicable for determination of the compensation in the present acquisition proceedings or whether the same ought to have been governed by the Act of 1894 in terms of the unamended provisions of Section 126 of the MRTP Act, 1966.

19. From the material placed on record, it is not in dispute that the subject land was reserved under Section 126 of the MRTP Act, 1966 by Notification dated 21.09.2001. A proposal for acquisition was submitted by the petitioner in the year 2009. A declaration under Section 126(4) of the MRTP Act, 1966 read with Section 6 of the Act of 1894 was issued on 23.07.2013 and published in August, 2013. Admittedly, no Award under Section 11 of the Act of 1894 had been passed prior to 01.01.2014, the date on which the Act of 2013 came into force. The award in the present case came to be passed subsequently on



01.12.2015. Thus, though the acquisition proceedings had commenced under the Act of 1894, they had not culminated in the passing of an award prior to the coming into force of the Act of 2013. The factual position in that regard is not in dispute.

20. The Act of 2013 came into force with effect from 01.01.2014. Section 114 thereof repeals the Act of 1894, subject to the savings contained in Section 24, which governs pending acquisition proceedings. In particular, Section 24(1)(a) of the Act provides that -

“24. Land acquisition process under Act No.1 of 1894 shall be deemed to have lapsed in certain cases -

(1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Act of 1894 (1 of 1894), -

(a) 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; or”

21. In view of the express mandate contained in Section 24(1)(a) of the Act of 2013, the determination of compensation in such cases is required to be governed by the provisions of the Act of 2013. The language employed in Section 24(1)(a) is clear and unambiguous and leaves no discretion with the authority in the matter of applicability of the provisions relating to compensation.

22. The determination of compensation under the scheme of land acquisition law is governed strictly by the statutory framework and is not dependent upon the choice or insistence of the acquiring body. In ***Santosh Kumar*** (supra), the Hon’ble Supreme Court has held that the award made by the Collector partakes the character of a statutory



determination and cannot be questioned except on grounds of fraud, corruption or collusion or in accordance with the provisions of the statute.

23. The limited role of the acquiring body or beneficiary in such proceedings has been further emphasized in *Satish Kumar Gupta* (supra), wherein it has been observed that the mere fact that an entity may ultimately bear the financial burden of enhanced compensation does not give any locus to question or influence the determination of compensation except in accordance with the statute.

24. These principles reinforce the position that once the statutory mandate under Section 24(1)(a) of the Act of 2013 is attracted, the determination of compensation must necessarily be in accordance with the provisions of the Act of 2013, and the petitioner cannot insist upon application of the provisions of the Act of 1894 merely on the ground that the acquisition proceedings were initiated thereunder.

25. In the present case, admittedly, no Award had been passed prior to 01.01.2014, therefore, the statutory mandate under Section 24(1)(a) of the Act squarely applies. The contention of the petitioner that the proceedings must be governed entirely by the Act of 1894, merely because they were initiated thereunder cannot be accepted in view of the clear and overriding language under Section 24(1)(a) of the new Act of 2013.



26. The petitioner has also placed reliance on Section 126 of the MRTP Act, 1966 and has contended that the law applicable is one prevailing on the date of initiation of the acquisition proceedings. The said contention cannot be accepted. The MRTP Act does not operate in isolation but adopts the mechanism of land acquisition law as applicable from time to time. Once the Act of 2013 came into force and the Act of 1894 stood repealed, the determination of compensation in pending proceedings became subject to the transitional provisions contained in Section 24 of the Act of 2013. Section 24 has an overriding effect and governs all pending acquisition proceedings irrespective of the source statute under which acquisition was initiated. The language of Section 24(1)(a) leave no scope to interpret otherwise.

27. In this context, it is pertinent to note that in *Gimar Traders* (supra) the Hon'ble Supreme Court has held that the Maharashtra Regional and Town Planning Act, 1966 is an independent enactment, though it adopts the machinery of the land acquisition law for effectuating acquisition, including determination of compensation.

Once recourse is taken to such statutory framework, the determination of compensation is required to be governed by the law in force at the relevant stage. In the present case, since no award had been passed prior to 01.01.2014, the determination of compensation must necessarily be in accordance with the provisions of the Act of 2013, as the acquisition was not concluded by passing of an Award.



28. The contention based on the amendment to Section 126 of the MRTP Act, incorporating reference to the Act of 2013, is also misconceived. Though the said amendment may operate prospectively, the applicability of the Act of 2013 in the present case does not arise from the said amendment but flows directly from Section 24(1)(a) of the Act of 2013.

29. The reliance placed by the petitioner on *Hanumanrao Morbaji Gudadhe* (supra) is misplaced. The said judgment was rendered in the context of the unamended provisions of Sections 125 and 126 of the MRTP Act, 1966, wherein only the Act of 1894 was referred to, and there was no consideration of the Act of 2013. The present case, however, concerns determination of compensation in a situation where no award had been passed prior to 01.01.2014, thereby attracting Section 24(1)(a) of the Act of 2013. Thus, the ratio of this case cannot be extended to the facts of the present case.

30. Similarly, the Full Bench's view in *Mehtab Laiq Ahmed Shaikh* (supra) does not advance the case of the petitioner. The said judgment deals with the applicability of Section 24(2) of the Act of 2013 in the context of lapsing of acquisition proceedings. The Full Bench held that in view of the scheme of the MRTP Act, the provisions relating to lapsing of acquisition under Section 24(2) would not apply to acquisitions undertaken under Section 126 of the MRTP Act. The present case, however, does not involve the issue of lapsing of acquisition proceedings, but pertains to the determination of compensation in a



situation where no award had been passed prior to 01.01.2014. The controversy, thus, squarely falls within the ambit of Section 24(1)(a) of the Act of 2013, which operates in a distinct and independent field. Consequently, the ratio of the Full Bench judgment in *Mehtab Laiq Ahmed Shaikh* (supra) cannot be extended to exclude the applicability of Section 24(1)(a) in the facts of the present case.

31. The reliance placed on *U.P. Awam Vikas Parishad* (supra) is only with regard to the locus of the acquiring body to challenge the determination of compensation. The said judgment recognizes the locus of the acquiring body to participate in compensation proceedings and to challenge the determination of compensation through appropriate legal remedies. There can be no dispute with that proposition. However, the said judgment does not lay down any principle with regard to the applicability of the statutory provisions governing determination of compensation, particularly in the context of Section 24 of the Act of 2013. In the present case, the issue is not one of maintainability, but relates to the correct statutory regime applicable for determination of compensation, which stands governed by Section 24(1)(a) of the Act of 2013. Thus, the reliance placed on the aforesaid judgments does not advance the case of the petitioner on merits.

32. The respondent No.2 has also relied upon the Government circular dated 09.05.2014, which clarifies that in cases where no Award has been passed prior to 01.01.2014, compensation is to be determined in accordance with the Act of 2013. The said circular is in consonance



with the statutory provisions and clarifies the legal position.

33. The learned Counsel for the petitioner contended that the Award impugned suffers from non-application of mind. The same cannot be accepted. A perusal of the Award indicates that the Land Acquisition Officer has considered the relevant statutory provisions, including the effect of the Act of 2013, and has recorded reasons for applying the said provisions. The decision to apply the provisions of the Act of 2013 is based on a statutory mandate and not merely on the representations made by the landowners. More so, because it is the statute which governs determination of compensation and not the will of parties involved. In fact, the Award specifically records the reasons for applying the Act of 2013 thereby negating the allegations of arbitrariness.

34. It is an admitted position that the Award was passed on 01.12.2015. The compensation has been disbursed to the respondent Nos.3 to 11 and possession of the land has been taken and handed over to the petitioner. Thus, the acquisition proceedings have attained finality.

35. The Courts have reaffirmed that there is no vested right in particular mode of compensation. The determination of the compensation is governed by the law in force at the time of passing of the Award, where Section 24(1)(a) of the Act is attracted. The legislative intent behind the Act of 2013 is to ensure fair and enhanced compensation and the same has meaningful effect in pending



proceedings.

36. In view of the aforesaid discussion, this Court is of the considered opinion that the determination of the compensation by applying the provisions of the Act of 2013 was in consonance with Section 24(1)(a) of the Act thereof. The impugned Award does not suffer from any illegality or jurisdictional error, warranting interference under the writ jurisdiction. The contention of the petitioner that the compensation ought to have determined under the Act of 1894 is untenable in law.

37. Accordingly, the petition is dismissed. No order as to costs.

Rule is discharged.

(NIVEDITA P. MEHTA, J.)

(URMILA JOSHI PHALKE, J.)