IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12039 OF 2019
WITH
INTERIM APPLICATION NO. 3715 OF 2023
IN
WRIT PETITION NO. 12039 OF 2019

1. Hiraman Yashwant Kathe

   Age: 60 years, Occ. Agriculturist

2. Shridhar Yashwant Kathe

   Age: 58 years, Occ. Agriculturist

3. Bhausaheb Karbhari Gade

   Age: 55 years, Occ. Agriculturist

4. Vinayak Sukdeo Kendale

   Age: 43 years, Occ. Agriculturist

5. Dagu Sukdeo Kendale

   Age: 52 years, Occ. Agriculturist

6. Rajaram Sawliram Borade

   Age: 60 years, Occ. Agriculturist

7. Arun Ragho Ichal

   Age: 55 years, Occ. Agriculturist

8. Haribhau Waman Ichal

ASHWINI JANARDAN VALLAKATI
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Age: 57 years, Occ. Agriculturist

9. Kishor Dagu Gaikwad

Age: 35 years, Occ. Agriculturist

10. Rajendra Dagu Gaikwad

Age: 55 years, Occ. Agriculturist
All R/o. Mauje Akrale, Tal : Dindori,
District : Nashik ...**Petitioners/ Applicants**

Versus

1. The State of Maharashtra
Through the department of Industry & through
the Department of Environment Protection,
Government of Maharashtra, Mantralay,
Mumbai – 400032

2. Maharashtra Industrial Development
Corporation (MIDC)

A statutory Corporation
through its Regional Officer
Udyog Bhavan, Satpur, Dist : Nashik -7

3. The Land Acquisition, Officer, Nashik

4. The District Collector, Nashik ...**Respondents**

Mr. S.M. Gorwadkar, Senior Advocate, *i/b Sanjay H. Gangal, Advocates for the Applicants/Petitioner.*

Mr. Prashant Chawan, Senior Advocate, *a/w Shraddha Chheda, i/b M/s. Navdeep Vora & Associates, Advocates for Respondent No.2.*

Mr. B.V. Samant, Addl.GP, *a/w P.M.J. Deshpande, AGP for Respondent-State.*

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CORAM : G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

RESERVED ON : SEPTEMBER 26, 2024
PRONOUNCED ON : OCTOBER 15, 2024

JUDGEMENT: (*Per, Somasekhar Sundaresan J.*)

1. Rule. With the consent of the parties, taken up for final hearing and disposal.

2. This Petition, invoking the jurisdiction under Article 226 of the Constitution of India, challenges a decision by the Maharashtra Industrial Development Corporation ("***MIDC***"), Respondent No.2, communicated on December 8, 2017 and on April 13, 2018 (collectively, "***Impugned Order***"), refusing to refer the dispute raised by the Petitioners to the jurisdictional civil court under Section 34 of the Maharashtra Industrial Development Act, 1961 ("***the Act***").

3. The Petition prays that the Impugned Order be quashed and set aside. The Petition seeks a direction that the objections of the Petitioners be referred to the jurisdictional civil court under Section 34 of the Act. Another prayer seeks the appointment of a Court Commissioner to work out correct characterisation of the Petitioners' lands. Finally, a prayer seeks a declaration that the compensation ought to be computed under the Right to Fair

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Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("***2013 Act***").

4. With effect from July 3, 2019, the Act was amended to to provide for linkages with the 2013 Act. Consequently, under Section 33(5), the principles of computing compensation as provided for in the 2013 Act would apply to acquisitions under the Act. Likewise, Section 34 has been amended to provide for references of disputes over compensation to be made to the "Authority" (as defined in the 2013 Act) instead of references to the "Court" (as defined in the Land Acquisition Act, 1894). While the prayers and pleadings in the Petition refer to the civil court, for all purposes of this judgement, the term "Authority" is used, wherever necessary, in relation to the forum to which a reference may be made under Section 34 of the Act.

Core Issue:

5. At the heart of the Petition lies the grievance that the classification of the Petitioners' lands as seasonally-irrigated is wrong and it ought to be categorised as perennially-irrigated land. It is Petitioners' grievance that such classification has significantly injured their interests, since under their agreement with the State, they are being paid an amount of Rs. 52.5 lakhs per acre (payable for seasonally-irrigated land) as against their entitlement to Rs. 70 lakhs per acre (payable for perennially-irrigated land). The acquisition of

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the Petitioners' lands were by mutual consent under agreements, which had provided for a framework of amount payable, the only variation being linked to the nature of land.

Factual Matrix:

6. The following overview of the factual matrix would be in order:-

a) The Government of Maharashtra, Respondent No.1, issued a notification on December 6, 2007, declaring an area of 146 Hectares and 35 Ares and another 202 Hectares and 17 Ares in Talegaon Village as an industrial area under the Act, initiating the statutory process for acquisition;

b) On February 7, 2008, the MIDC authorized the Land Acquisition Officer, Nashik, Respondent No.3 to commence the land acquisition proceedings pursuant to the aforesaid notification;

c) Eventually, on December 17, 2013, agreements were executed between the Petitioners and the Land Acquisition Officer under Section 33(2) of the Act, for acquisition of various parcels of the notified land. The agreements provided for a framework for computing compensation

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payable. The amount payable for non-irrigated land was stated to be Rs.35 Lakhs per acre. For seasonally-irrigated land and perennially-irrigated land, such amount would be increased to 1.5 times and 2 times respectively – Rs. 52.50 Lakhs for seasonally-irrigated land; and Rs. 70 Lakhs for perennially-irrigated land. The terms and conditions included a stipulation that the landowner would not initiate any proceedings to air any grievance seeking enhanced compensation for the land;

d) Different awards were passed on different dates ("***Consent Awards***") for various lands owned by the Petitioners under Section 33(2) of the Act, awarding a total compensation of Rs.70,92,75,000/-. The Consent Awards record the same framework for compensation (based on the category the land would fall under) as set out in the agreements;

e) On November 15, 2014, the Petitioners made a representation that they should be compensated at the rate of Rs. 52.50 Lakhs per Acre or Rs. 70 Lakhs per Acre, on the basis that their land ought not to be classified as non-irrigated land. Subject to this protest, the Petitioners accepted payment of Rs.35 Lakhs per acre;

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f) On November 18, 2015 compensation at the rate of Rs.35 Lakhs per acre was received by the Petitioners;

g) It is seen from the affidavit in reply dated July 13, 2020 ("***Reply Affidavit***"), that on August 11, 2017 the Taluka Agricultural Officer submitted information that would be necessary for determination of the categorisation of the land to the Land Acquisition Officer;

h) The Petitioners made a representation on February 14, 2018 that their representations warranted a reference to the jurisdictional civil court under Section 34 of the Act;

i) On April 13, 2018 the aforesaid representation was rejected by way of the Impugned Order. The Impugned Order recorded that various lands were classified on the basis of the crop yield data based on crop inspection entries of a decade prior to the acquisition, and the compensation as applicable to the respective parcels of land has been finalised in terms of the framework contained in the agreements, which also culminated in the Consent Awards. From the pleadings in the Petition, it appears that the Petitioners' lands were held to be entitled to compensation at the rate of Rs. 52.50 lakh per acre, on

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the premise that it was seasonally-irrigated land, and not at the rate of Rs. 70 lakh per acre, which is the amount payable for perennially-irrigated land; and

j) Challenging this decision of April 13, 2018, this Writ Petition came to be filed over a year later, affirmed on June 20, 2019.

Contentions of the Parties:

7. We have heard Mr. S.M. Gorwadkar, Learned Senior Counsel on behalf of the Petitioners, who has determinedly sought to explain that the Petitioners' stand is simply that mis-classification of the lands has occurred, which led to the compensation being computed erroneously. Consequently, he would submit, there is a clear dispute over the compensation, and the recourse for resolving such a dispute is the reference of such dispute to the Authority having jurisdiction under Section 34 of the Act.

8. The grounds of attack on the Impugned Order are manifold. One of the grounds is that the 2013 Act, which has changed the landscape for land acquisition in India with effect from January 1, 2014, would now govern the acquisition in question, and that all awards passed under state legislation such as the Act would be discriminatory and arbitrary. However, Mr. Gorwadkar

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would fairly state that the core ground of challenge was to the wrongful categorisation of the lands in question, which has had an injurious effect on the Petitioners. The agreements and the Consent Awards entail a framework for computing the compensation, and if the framework is wrongly applied, it has the effect of erroneous and arbitrary compensation being offered to the Petitioners, which is amenable to correction by reference to the Authority. The refusal to refer the dispute to the civil court, Learned Senior Counsel would submit, ought to be reversed in exercise of the writ jurisdiction of this Court.

9. According to the pleadings in the Petition, the Petitioners' lands have been erroneously classified as seasonally-irrigated land giving them compensation at the rate of Rs.52.50 Lakhs per acre whereas they ought to have been paid Rs.70 Lakhs per acre on the ground that the lands were perennially-irrigated. According to Mr. Gorwadkar, the Consent Awards may appear to be products of conscious agreement, but the agreements in question only enabled a framework for payment of compensation based on the categorisation of the land, and did not actually firm up the actual categorisation of the lands in question. Way back in 2014, the various landowners had already stated that they would accept the compensation subject to their grievance that their land should actually be treated as perennially-irrigated.

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10. Mr. Gorwardkar would submit that the MIDC has admitted in the Reply Affidavit that the data based on which categorisation of the land became possible, was admittedly available only on August 11, 2017. Therefore, the Petitioners cannot be said to have known prior to 2017 what their final and actual entitlement would be. . If the final compensation is not in consonance with the Consent Awards by reason of mis-categorisation, he would submit, the situation would clearly present a dispute that ought to be referred to the Authority . He would add that the period of limitation for the Petitioners to object can be computed only once the categorisation is actually finalised (after 2017 and not at the time of the Consent Awards).

11. In contrast, Mr. Prashant Chawan, Learned Senior Counsel appearing on behalf of MIDC would submit that there cannot be an adjudication of an objection to compensation agreed upon by mutual consent as contained in the Consent Awards. Ms. P.M.J. Deshpande, Addl. G.P. and Mr. B.V. Samant, Addl. G.P. on behalf of the other Respondents, would submit that the Petitioners are hopelessly barred by limitation since Section 34 of the Act provides for a limitation of 60 days from the date of the decision on the compensation, with no provision for condonation of delay beyond such period.

12. Any challenge under Section 34 has to be filed within 60 days from the date of knowledge of the determination of the compensation. They

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would submit that this facet of the matter is squarely covered by decision of a Division Bench of this Court in *State of Maharashtra and another vs. Keru Baban Avhad*[1] (***Keru Baban Avhad***), which has declared the law that the 60-day deadline to apply to the Collector seeking referral of the dispute to the jurisdictional court, cannot be relaxed. Mr. Gorwardkar too would cite ***Keru Baban Avhad*** to undermine the need for a party to have knowledge of the ingredients of the award.

13. Having heard the Learned Counsel for the parties, who have meticulously taken through the material on record to canvass their respective positions, we are of the view that the Petitioners have not made out a case for our intervention in exercise of our jurisdiction under Article 226 of the Constitution of India, for a variety of reasons.

Sections 33 and 34 – no Reference in Consent Awards:

14. At the threshold, the following relevant extracts from the provisions of the Act must be noticed:-

> ***33. Compensation.-****(1)* ***Where any land is acquired by the State Government under this Chapter, the State Government shall pay for such acquisition compensation*** *the amount of which shall be* ***determined in accordance with the provisions of this section.***

[1] *2008 SCC OnLine Bom 379*

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*(2) **Where the amount of compensation has been determined by agreement** between the State Government and the person to be compensated, **it shall be determined in accordance with such agreement.***

*(3) **Where no such agreement can be reached, the State Government shall refer the case to the Collector for determination** of the amount of compensation to be paid for such acquisition as also the person or persons to whom such compensation shall be paid:*
*Provided that, **no compensation exceeding such amount as the State Government may by general order specify,** to be paid for such acquisition **shall be determined by the Collector** without the previous approval of the State Government or such officer as the State Government may appoint in this behalf.*

*Provided further that, **the State Government while issuing the general order under the preceding proviso shall adhere to the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013) relating to the determination of amount of compensation** in accordance with the First Schedule, and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families.*

*(3A) Notwithstanding anything contained in sub-section (3), **if after the case is referred to the Collector under that sub-section but before he has finally determined the amount of compensation, such amount is determined by agreement** between the State Government and the person to be compensated, **the compensation shall be determined by the Collector in accordance with such agreement.***

(4) Before finally determining the amount of compensation, the Collector shall give an opportunity to every person to be compensated to state his case as to the amount of compensation.

*(5) **In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 26 to 30 and other relevant provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (30 of 2013),** subject to the modifications that, the reference in section 26 to the date on which notification has been issued under section 11", shall be the reference as "the date of the service of publication of the notice under sub- section (2) of section 32 of this Act in the manner for the time being laid down under this Act", and the reference in section 28 to "the time of the publication of the declaration under section 19" shall be the reference as "the date of the*

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publication of the notice under sub-section (1) of section 32 of this Act in the Official Gazette.

*(6) to 12) ******

Section 34. Appeal to Court.

*(1) **Any person aggrieved by the decision of the Collector determining the amount of compensation** may, **within sixty days from the date of such decision**, in so far as it affects him, **by written application to the Collector require that the matter be referred by him for determination of the Court** as defined in the Land Acquisition Act, 1894 (I of 1894), in its application to the State of Maharashtra, and when any such application is made the provisions of Part IIT of the said Act shall mutatis mutandis apply to further proceedings in respect thereof.*

*(2) ******

[Emphasis Supplied]

15. It would be clear from the plain reading of the foregoing that the determination of compensation is to be done in accordance with Section 33. Under Section 33(2), where there is an acquisition by agreement, the determination of compensation has to be done in accordance with the agreement. It is only when no agreement can be reached, that the jurisdiction of Section 33(3) is attracted – it provides for determination of the compensation and identification of the entitlement to the compensation, by the Collector. Section 33(3A) is noteworthy – if the State and the landowners reach an agreement before the Collector can determine the compensation, then the Collector's determination has to conform to the compensation under the agreement.

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16. Where the Collector determines the compensation, Section 33(4) requires him to give those who are to be compensated, an opportunity to be heard. Section 33(5) is attracted where the Collector is determining the compensation, requiring him to determine such amount by applying the principles stipulated in the 2013 Act.

17. Suffice it to say, Section 33(4) and Section 33(5) would only be attracted where the Collector has to exercise jurisdiction under Section 33(3) to determine the compensation. The jurisdiction of the Collector comes into play under Section 33(3), only where no agreement can be reached between the State Government and the landowner under Section 33(2). Therefore, the 2013 Act would have no role to play at all in the matter at hand, since it is nobody's case that the State Government and the landowner have not reached an agreement. Admittedly, the case at hand is one of agreement under Section 33(2) of the Act having been reached, and the Consent Awards are a product of such agreement. Therefore, in the matter at hand, the Collector has no role whatsoever in determination of compensation under Section 33 of the Act.

18. That would bring us to the scope of Section 34 of the Act. The subject matter of grievance dealt with in Section 34 is the determination of compensation by the Collector. Such determination of the compensation by the Collector can only arise when the provisions of Section 33(3) are attracted.

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For the jurisdiction of the Collector to determine compensation under Section 33(3) to arise, a precondition is that no agreement can be reached between the State Government and the landowner. In the instant case, admittedly and evidently, the very acquisition is under Section 33(2) under which an agreement has been reached. There may arise differences of opinion among contracting parties in an agreement, but the forum for resolution of such disputes cannot be the special reference jurisdiction, which is a creation of statute under Section 34 of the Act, with explicitly stipulated ingredients to attract its jurisdiction.

19. For a person to apply to the Collector asking him to refer the matter to the Authority exercising the reference jurisdiction under Section 34, he ought to have a grievance about the decision of the Collector "determining the amount of compensation". In the instant case, it is not the Collector who has determined the compensation under Section 33(3), applying the principles laid out in Section 33(5). As seen above, the very scheme of Section 33 gives primacy to consideration arrived at pursuant to an agreement.

20. It is only when the Collector is unilaterally determining the compensation that he has to give an opportunity of being heard – it would be trite to say that when the landowners have entered into an agreement of their own will and accord, their involvement in reaching the mutually agreed position is inherent. There is no question of a special provision being required

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to enable a personal hearing – the very agreement is a product of personal engagement between the parties. In these circumstances, we find merit in the contention of Mr. Chawan and the Learned Additional Government Pleaders that in the case at hand, there can be no resort to Section 34 of the Act, when the compensation has been arrived at as a matter of agreement under Section 33(2) of the Act.

21. Agreements between the State Government and the landowner are a matter of conscious mutual consent and finalization of a commercial bargain between the parties who are *ad idem* on how they understand the bargain in the agreement. The factors and criteria for determination of compensation in terms of the 2013 Act governing unilateral determination of compensation would not at all be relevant, and therefore, there can be no dispute about how those factors have been applied, for a reference under Section 34 to be made.

22. It is a matter of common sense that a party consciously executing a contract would apply its mind to it's owns self interest when agreeing to the terms of the contract, which is what the Petitioners have done. Mr. Gorwadkar too has rightly stated that the Petitioners' grouse is only really whether within the framework of the agreement, the right categorisation has been arrived at, which would lead to the application of the right price among the three agreed price variants. As seen from the pleadings, the Petitioners are being compensated at the rate of Rs. 52.50 lakhs per acre, which is the

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amount agreed as being payable to landowners who have parted with seasonally-irrigated land. That the Petitioners have a grievance about the characterisation of their land as seasonally-irrigated land, would at best lead to a dispute under the agreement, but it cannot lead to a grievance over the determination of compensation by the Collector under Section 33, for an application under Section 34 to be permissible.

23. Disputes under the agreement may be amenable to other means of enforcement in law – for instance, potentially, a civil suit outside the statutory reference framework of Section 34; or a writ petition on arbitrariness in categorisation; or such other means as may be available in law. However, for the reasons articulated above, the compensation not having been determined by the Collector, no case is made out for directing that a reference be made under Section 34.

24. While the aforesaid finding should be adequate to dispose of this Petition for completeness, the arguments of the parties about limitation may be noticed. In ***Keru Baban Avhad***, a Division Bench of this Court ruled as follows:-

> ***24****. The applications for reference filed by the claimants prima facie appear to be barred by time as they have been filed much beyond the period of 60 days from the date of decision of the Collector and even from the date of disbursement of compensation to them. Since it is not the case pleaded before us that the claimants were present at the time of declaration of the Award, the Court cannot draw any presumption*

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that the claimants were in knowledge of the award and/or its contents on 20th June, 1994 i.e. the date of declaration of award. We have already discussed above that in order to make the remedy fruitful and effective, it is necessary that the claimants should have knowledge of the essential ingredients of the Award. These essentials would be declaration of the award, the details of the land acquired, rate at which compensation is awarded and bare minimum reasons to support those finding. Reference can usefully be made to the judgments of the various Courts, including this Court in the case of Maharashtra Industrial Development Corporation, Nagpur v. Shaikh Khatinabi wd/o Abdul Gaffar Shaikh, 2008 (1) Mh. L.J. 813 as also the Supreme Court in the case of Mahadeo Bajirao Patil v. State of Maharashtra, 2006 (1) Mh. L.J. (SC) 28 : 2005 (7) SCC 440. ***It has been unambiguously held in those cases that mere declaration of award per se is not a notice to the claimants and the claimants should know or have proper knowledge of the essentials of the Award which will be required for making the remedy of appeal effective and purposeful.***

25. *In the present case, all these ingredients came to the knowledge of the claimants on 7th July, 1994 when they received compensation in terms of the Award already declared on 20th June, 1994.* ***Once compensation so determined was actually paid to them and received by them, whether with or without prejudice, it would satisfy the basic requirements of knowledge about the declaration of award as it would fairly provide them the required information for taking recourse to their remedy under section 34(1) of the MID Act.*** *The cases in which affidavits have been filed by the claimants to show that they had received payments beyond 7th July, 1994, and in any case 21st July, 1994, certain evidence is required to be led before their claims can be rejected as being barred by time by the Reference Court.*

26. *The other important aspect of the case is whether the provisions of section 5 of the Limitation Act or any other provisions could be invoked by the Collector or the Reference Court to condone the delay in filing petitions under section 18 of the Act and under section 34(1) of the MID Act.* ***Both these provisions which prescribe for a specific period of limitation do not empower the Collector or the Court to condone the delay in filing a petition for reference. It is thus clear that wherever the petition filed under section 18 of the Act is barred by***

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> ***time, the Collector or the Court has no jurisdiction to condone the delay****. Similarly,* ***if a petition is filed under section 34(1) of the MID Act, it must be filed within a period of sixty days from the date of the decision of the Collector and/or at best from a date which could be construed to be the date when the claimants had a fair knowledge about the essential features of the award. But once that date is known and/or determined, in that event, there is no power vested in the Collector or the Court to condone the delay in filing the appeal.*** *In this regard, reference can be made to the judgment of the Supreme Court in the case of Officer on Special Duty (Land Acquisition) v. Shah Manilal Chandulal, 1996 (1) Mh. L.J. (SC) 609 : (1996) 9 SCC 414. Reference in this regard can also be made to the judgment of the Supreme Court in the case of Mahadeo Bajirao Patil (supra).*
>
> *28.* ***The period of limitation cannot be extended by the Collector or the Courts and, therefore, reference should essentially be filed within the prescribed period of limitation under section 34(1) of the MID Act.***
>
> ***[Emphasis Supplied]***

25. A batch of special leave petitions, *inter alia* challenging this judgment came to be dismissed by the Supreme Court by an order dated January 29, 2015.

26. The Petitioners have cited ***Keru Baban Avhad*** for the contents of paragraph 24 extracted above to state that it is vital for them to have had knowledge of the ingredients of the compensation – they have even invoked it in their application to the Collector asking for a reference to be made. The Consent Awards were made pursuant to the agreements executed in 2013. In fact, Mr. Gorwadkar fairly states that the receipt of compensation took place on November 18, 2015. The application to the Collector seeking a reference

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under Section 34 has been made in February 2018. Since such application was clearly made years after the receipt of compensation (as against the limitation period of 60 days), Mr. Gorwadkar submits that it is now an admitted position that the data for a proper categorisation of the land had been made available only on August 11, 2017, as is seen from the Reply Affidavit. Therefore, he would submit, limitation should be counted only from the stage at which the Petitioners gained knowledge of the categorisation of their lands, which can only be after August 11, 2017. According to him, the Petitioners gained knowledge on December 25, 2017 that there had been a categorisation on December 8, 2017. Therefore, their application on February 14, 2018 was within the limitation period of 60 days from the date of their knowledge, as stipulated under Section 34 of the Act.

27. The Respondents have cited ***Keru Baban Avhad*** to state that the Consent Awards put the Petitioners on notice of its contents and the 60-day limitation period commenced then. Since knowledge of determination of the ingredients of compensation is necessary to challenge it, the question of limitation is a mixed question of fact and law.

28. Be that as it may, in our opinion, we need not enter upon this issue at all, since we are firmly of the view that the matter at hand does not at all lend itself to the jurisdiction of Section 34, for the detailed reasons set out above. It is only if Section 34 is attracted that one would need to adjudicate

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upon the computation of the 60-day period. In the facts of the case at hand, such an exercise is wholly unnecessary.

29. The framework for computing the compensation had already been agreed between the parties way back in 2013. The parties consciously put themselves in a position of subjecting their compensation amount to the categorisation of the land. They even agreed that depending on the categorisation, they would be entitled to varying pre-agreed rates of compensation. Even assuming for the sake of argument that the categorisation was effected only in 2017, in our opinion, on the Petitioners' own showing, they had not only executed the agreement accepting the compensation framework, but also bargained for an enhancement in the compensation depending on the categorisation of their lands. Section 33(2) as well as Section 33(3A) are explicit in their terms, inasmuch as compensation determined by agreement would be sacrosanct and the Collector would have no role in determining the compensation where an agreement is involved. Therefore, since the compensation in question is not determined by the Collector but by the parties to the agreement, the mixed question of fact and law involved in determining limitation, is moot.

30. The Petitioners consciously subjected themselves to the procedure envisaged in the agreements, and bound themselves to compensation as set out in the agreements. The framework of rates was also accepted by them.

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Having done that, in our opinion, the jurisdiction of Section 34, which is a check and balance on unilateral determination of compensation by the Collector, cannot be invoked. Even if the reference is made to the Authority, the determination of compensation by that Authority would be by applying the provisions of the 2013 Act, in order to test the veracity and accuracy of the Collector's application of the 2013 Act, in determination of compensation . The Authority would have to work in a vacuum since to begin with, there had been no action on the part of the Collector to be adjudicated by the Authority, and moreover, there has been no application of the principles of computing compensation under the 2013 Act for such computation to be tested by the Authority. Regardless it is also noted that the Petitioners' request to enhance compensation had already been rejected multiple times before the Impugned Order, which rejected the request for making a reference under Section 34.

31. As a result, we have no hesitation in rejecting the prayer for directing that a reference be made under Section 34, to the Authority.

32. The Land Acquisition Officer, in the Reply Affidavit, has stated that the categorisation of the lands had been effected on the basis of the crop inspection entries for the period between 2002-03 to 2013-14. The grounds in this Petition primarily relate to invoking the jurisdiction of Section 34 of the Act. There is no material in the Petition to suggest that the interpretation of the crop data in effecting the categorisation was arbitrary, or that the crop

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data had been applied arbitrarily or that categorisation of land was without application of mind to the crop data. Consequently, without any basis to bring under cloud, the reasonableness of the categorisation on merits, there is no scope for allowing the prayer for appointment of a Court Commissioner or the *Mamlatdar* to undertake the categorization afresh. So also, since the acquisition in question is pursuant to a framework contained in a mutually agreed contract, there is no scope for direction computation of compensation under the 2013 Act.

33. To summarize:-

a) We hold that it would not be possible to make a reference of a dispute over categorisation of the Petitioners' lands to the Authority under Section 34 of the Act, since the land acquisition and the computation of compensation for the acquisition is by way of agreements executed under Section 33(2) of the Act;

b) There having been no pleading or any attack on the reasonableness of the categorisation of the land in the Petition, with nothing to suggest that the categorisation was arbitrary, there is no question of issuing a writ to have the categorisation be effected afresh, whether by a Court

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Commissioner or the *Mamlatdar*, or by any other person;

c) No direction for computing compensation, applying the provisions of the 2013 Act can be issued since the compensation has been arrived at by agreement under Section 33(2), which explicitly provides for compensation being governed by the agreement between the State Government and the landowner;

d) Section 33(3) and the consequential provisions requiring the Collector to determine the compensation by applying the principles under the 2013 Act, can only be applied when no agreement can be reached over the acquisition and compensation for it. Even where the Collector commences such exercise, if such an agreement is reached between the parties, the Collector's determination of compensation would need to be in accordance with such agreement; and

e) Consequently, no relief whatsoever as prayed for, can be granted to the Petitioners in the facts and circumstances of the case.

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34. As a result, Rule is discharged, and the Writ Petition is disposed of accordingly, without grant of any relief. In view of the disposal of the Writ Petition, nothing would survive in any application in connection with this Writ Petition, and the same too would stand disposed of.

[SOMASEKHAR SUNDARESAN, J.] **[G. S. KULKARNI, J.]**

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