

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.724 OF 2015

Prabhakar s/o Pandhari Pawar,
Age: 60 Yrs., occu. Agril.
R/o Pungaon, Tq.Kallamb,
District Osmanabad.

- PETITIONER

VERSUS

- 1) The State of Maharashtra
Through the Secretary,
Department of Water Resources,
Mantralaya, Fort,Mumbai.
- 2) The Chief Engineer,
Water Resources Department,
Sinchan Bhavan, Near Akashwani,
Aurangabad.
- 3) The Superintending Engineer,
Osmanabad Irrigation Circle,
Osmanabad.
- 4) The Sub-Divisional Officer,
Minor Irrigation Sub Division,
Kallamb, Tq. Kallamb,
District Osmanabad.
- 5) The Divisional Commissioner,
Aurangabad Division,
Aurangabad.
- 6) The District Collector,
Aurangabad.
- 7) The Special Land Acquisition
Officer No.2, (Medium Project),
Osmanabad.

- RESPONDENTS

Mr.Rajdeep D.Raut,Advocate for Petitioner/s

Mrs.MA Deshpande,AGP for the Respendenets.

**CORAM : R.M.BORDE &
P.R.BORA,JJ.**

DATE : 6th August,2015.

ORAL JUDGMENT (PER:-R.M.BORDE,J.)

1) Heard. Rule, with the consent of parties, the petition is taken up for final hearing at admission stage.

2) Agricultural lands belonging to the petitioners, situated at village Pargaon, Tq. Kallamb, District Osmanabad, were proposed for acquisition for construction of water storage tank. A notification under Section 4 of the Land Acquisition Act, 1894 (for short the said Act) came to be issue on 22nd March, 2012. The petitioners and others have raised objections, in writing, to the acquisition proceedings, under Section 5-A of the said Act. The enquiry initiated by the State Government has not attained finality and till this date, Award has not been declared.

3) It is not a matter of dispute that after issuance of Section 4 notification in the year 2012, the acquisition proceedings have not been further

carried and declaration under Section 6 has not been issued. Section 4 prescribes for publication of preliminary notification, declaring that the land is needed for public purpose, thereby putting the owners of such land to notice that they shall not enter into any transaction in relation to such properties. The scheme of the Act of 1894 provides for hearing of objections raised by any person interested in any land, which has been notified under Section 4 sub-section (1) and on consideration of the objections, the Collector is expected to tender a report to the Appropriate Government and the Appropriate Government, shall have to take decision on the objections, which shall be final.

4) Section 6 of the Act and more specifically proviso 1(ii) to sub-section (1) contemplates issuance of a declaration that a particular land is needed for public purpose and such declaration shall have to be made within a period of one year from the date of publication of the notification (Section 4). Section 11-A of the Act of 1894 mandates the Collector to make an Award under Section 11 within two years from the date of publication of a

declaration (Section 6) and if no award is made within that period, the entire proceedings of the acquisition of land shall lapse.

5) In the instant matter, the proceedings in respect of acquisition have not moved beyond the stage of publication of a preliminary notification, as contemplated under Section 4 of the Act. Even after passage of three years from the date of issuance of preliminary notification under Section 4, Award has not been declared. As such, the proceedings initiated for acquisition under the Act of 1894, shall be deemed to have lapsed. As a consequence of lapsing of the proceedings, it is always open for the State authorities, if they deem it appropriate, to initiate fresh proceedings for acquisition of the land in accordance with the provisions of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

6) Learned AGP appearing for the State, on instructions, informs that the lands belonging to the petitioners are needed for public purpose and the

State Government proposes to invoke the provisions of the Act of 2013.

7) For the reasons recorded above, it is hereby declared that the proceedings for acquisition of the lands initiated with issuance of preliminary notification on 22nd March, 2012, under the Act of 1894, shall be deemed to have lapsed; and it would be open for the State/Respondents to initiate fresh acquisition proceedings in accordance with the Act of 2013.

8) Rule is accordingly made absolute. There shall be no order as to costs.

sd/-
(P.R.BORA)
JUDGE

sd/-
(R.M.BORDE)
JUDGE

bdv/