

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

WRIT PETITION NO.7980 OF 2006

Shri Siddivinayak Grihanirman Sanstha
(Housing Society), Aurangabad
through Shahaji s/o Waman Bhangе,
Age 56 years, Occu. Service,
R/o Plot No.10, Samarthnagar,
Aurangabad

... PETITIONER

VERSUS

1. The Special Land Acquisition Officer,
Special Cell, Aurangabad
Office in the premises of
Aurangabad Municipal Corporation
Rest House, Railway Station,
Aurangabad
2. The Department of Telecommunication,
through the Engineer/ General Manager,
Anwikar Building, Aurangabad
3. The State of Maharashtra
through the Collector,
Aurangabad

... RESPONDENTS

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Shri P.V. Mandlik, Senior Counsel, instructed by
Shri A.S. Gandhi, Advocate for petitioner
Shri P.S. Patil, A.G.P. for respondents No.1 and 3
Shri S.C. Arora, Advocate for respondent No.2
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W I T H

WRIT PETITION NO.7982 OF 2006

1. Bhaskar s/o Haridas Karvande,
Age 40 years, Occu. Agriculture
R/o Savtamalinagar, Chikalthana,
Aurangabad.
2. Bhagwan s/o Deoji Karvande
Age 70 years, Occu. Agriculture
R/o as above. ... PETITIONERS

VERSUS

1. The Special Land Acquisition Officer,
Special Cell, Aurangabad
Office in the premises of
Aurangabad Municipal Corporation
Rest House, Railway Station,
Aurangabad
2. The Department of Telecommunication,
through the Engineer/ General Manager,
Anwikar Building, Aurangabad
3. The State of Maharashtra
through the Collector,
Aurangabad ... RESPONDENTS

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Shri P.V. Mandlik, Senior Counsel, instructed by
Shri A.S. Gandhi, Advocate for petitioner
Shri P.S. Patil, A.G.P. for respondents No.1 and 3
Shri S.C. Arora, Advocate for respondent No.2
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CORAM: R.M. BORDE &
A.I.S. CHEEMA, JJ.

DATED: 20th November, 2015.

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

1. The petitioners are owners and possessors of the
lands which are subjectmatter of acquisition at the instance of

Bharat Sanchar Nigam Limited, the erstwhile Department of Telecommunication. The lands were required by the acquiring body for public purpose. It is not a matter of dispute that the acquisition proceedings were initiated in respect of subject lands and after following procedure prescribed under the Land Acquisition Act, 1894, the award came to be declared on 31.10.2006. The petitioners objected to the award on various grounds by filing the present Writ Petitions.

2. This Court, at the stage of admission of the petitions, directed the parties to maintain status-quo. The order granting interim relief came to be vacated on 10.9.2009. This Court granted Rule in the matter, however, observed that, the petitioners would be entitled to compensation at the enhanced rate, if any, in the event the petitioners succeed in the petitions. The order directing vacation of the interim relief was objected by the petitioners by presenting Special Leave Petitions before the Supreme Court. The Supreme Court, However, refused to entertain the petitions and directed dismissal of the Special Leave Petitions presented by the petitioner, vide order dated 26.10.2009 and 13.11.2009. After dismissal of the Special Leave Petitions presented by the petitioners and during the pendency of the Writ Petitions, no steps were taken by the acquiring body or

the State to resume the possession of the properties under acquisition. The possession of the properties under acquisition remained with the original owners, who are stated to have alienated the same and created third party interest in favour of some other person during the pendency of these petitions. The fact, however, remains that, the land owners were neither paid the amount of compensation determined under the award nor the possession of the said property has been taken over by the State Government or the acquiring body until this date.

3. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is enforced since 1.1.2014. In view of Section 24(2) of the Act of 2013, the acquisition proceedings initiated under the Land Acquisition Act, 1894 where an award under Section 11 has been made five years or more prior to the commencement of the Act but the physical possession of the land has not been taken or the compensation has not been paid, the proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of the Act of 2013.

4. In the instant matters, admittedly the award has

been declared in respect of the subject properties in the year 2006 i.e. almost seven years prior to enforcement of the Act of 2013. Further, it is not a matter of dispute that the petitioners have neither been paid the amount of compensation determined under the award nor the possession of the subject properties under acquisition has been taken over by the appropriate Government. In this view of the matter, by virtue of the provisions of Section 24(2) of the Act of 2013, the proceedings of acquisition initiated under the Act of 1894 stood lapsed. Consequently, the award declared on 31.10.2006 is quashed. It would be open for the appropriate Government or the acquiring body to take steps for acquisition of the property if needed, in accordance with the provisions of the Act of 2013. Rule is accordingly made absolute. In the facts of the case, there shall be no order as to costs.

(A.I.S. CHEEMA, J.)

(R.M. BORDE, J.)