

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION**

WRIT PETITION NO. 4466 OF 2012

Baburao Bhau Kamble & Ors.

....Petitioners.

Vs.

Collector, Kolhapur District & Ors.

....Respondents.

Mr. Kedar P. Lad i/by Mr. P.D. Dalvi for the Petitioners.

Ms. M.B. Bane, AGP for Respondent Nos. 1 to 4.

Mr. Vijay D. Patil for Respondent No.5.

**CORAM : SMT. VASANTI A. NAIK AND
C.V. BHADANG, JJ.**

DATE : 5th JANUARY 2015.

P.C.:-

By this Petition, the Petitioners seek a direction to the Respondents to pay compensation to the Petitioners towards the acquisition of residential houses on the lands that were acquired for the Dudhganga Irrigation Project.

According to the Petitioners, the lands of the Petitioners were acquired by the State of Maharashtra for the Dudhganga Irrigation Project some time in the year 1972-73. It is the case of the Petitioners that though the Respondents paid the compensation towards the acquired land, the Respondents failed to pay the compensation towards the residential houses standing thereon. According to the Petitioners, the Petitioners continuously filed representations to the Respondents seeking compensation for the residential houses, but the Respondents failed to pay the compensation

towards the houses till date.

The Respondent-Executive Engineer, Dudhganga Irrigation Project, has filed the affidavit in reply. It is stated in the affidavit in reply that the Petitioners are not entitled to the compensation as the Petitioners were paid the compensation for the lands and the structures. An objection is raised on behalf of the Respondents to the tenability of the Writ Petition on the ground of laches. It is stated that the Petitioners have not approached this Court within a reasonable time for seeking the compensation.

The relief sought by the Petitioners is liable to be denied for more reasons than one. The Petition suffers from laches. The land of the Petitioners were acquired in the early 70's. The Petitioners had never challenged the award passed by the Special Land Acquisition Officer under the provisions of the Land Acquisition Act, 1894, in regard to the inadequacy of compensation. Also, there is a serious dispute whether there were residential houses standing on the acquired land at the time of issuance of the Section 4 Notification. The Petitioners cannot seek compensation in respect of the residential houses on the acquired land either under the Land Acquisition Act, 1894 or the Maharashtra Project Affected Persons Rehabilitation Act, 1986 at this belated stage. Also, on a reading of the Writ Petition and the reply filed by the Respondents, it appears that several disputed question of facts arise for determination in

this Writ Petition.

In the result, the Writ Petition fails and is dismissed with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)