

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

upa

WRIT PETITION NO.1618 OF 2012

Ramu Dattu Umavane

.. Petitioner

Vs.

District Collector, Nashik &

Special Land Acquisition Officer & Ors.

.. Respondents

....

Mr.A.R. Pitale, Advocate for the Petitioner.

Mr.V.S. Gokhale, AGP for Respondent Nos.1 and 4 to 6.

....

**CORAM : A.S. OKA &
A.P. BHANGALE, JJ.**

DATED : MARCH 25, 2015.

P.C. :

By this Writ Petition filed on 10th February, 2012, the petitioner is seeking relief of quashing an Award dated 24th May, 1974 in relation to the land of the petitioner described in paragraph 1 of the petition. The Award is under Section 11 of the Land Acquisition Act, 1894.

2 The first submission is that the land was acquired behind the back of the petitioner and no notice was served to the petitioner. The second submission is that the petitioner became aware of the acquisition proceedings when a mutation entry was made incorporating the name of the Forest Department in the Revenue

records in respect of the acquired land. His submission is that the public purpose for which the land was acquired was never in existence. He submitted that the purpose of acquisition “for the borrow area of village Asangaon” was a non-existing purpose. Lastly, he submitted that compensation has not been paid to the petitioner.

3 We have carefully considered the submissions. As far as entry of the name of the forest department in the revenue record is concerned, the same is made by a mutation entry no.1994 which was confirmed on 19th August, 1989. Thus, even the said entry was made 23 years before filing of this petition.

4 We have perused the Award. The Award refers to particulars of gazette notifications in which notification under Section 4 and declaration under Section 6 of the Land Acquisition Act, 1894 were published. The Award records that notices were served to all the owners as well as occupants of the land after ascertaining their names from the revenue records. Operative part of the Award records that total compensation of Rs.48,702/- (Rupees Forty Eight Thousand Seven Hundred and Two) was offered to persons interested as shown in the enclosed Award statement. The petitioner has not annexed the Award statement. The petitioner is relying upon the correspondence which is annexed from Exhibit- “C” onwards. The contention is that

in the year 1997, the petitioner and similarly situated land owners made a representation to the third respondent pointing out the fact that their lands were acquired under the garb of public purpose and the same were never utilised for the public purpose. This is the specific averemnts made in paragraph no.6 of the petition. The further averment is that the petitioners and similarly placed persons requested that since the work of construction of National highway was over, their lands be returned back after effecting necessary entries in the revenue records. Thus averements made in paragraph no.6 show that the petitioner was aware at least in the year 1997 that his land has been acquired and that he had lost possession. Thus, the knowledge of the petitioner about the acquisition surely relates back to the year 1997. This apart from the fact that entry of the name of the Forest Department was made in the revenue records by the mutation entry certified on 19th August, 1999.

5 Thus, the petition suffers from gross delay for which there is no explanation. Considering the conduct of the petitioner, he cannot be allowed to invoke discretionary and equitable remedy under Article 226 of the Constitution of India. The petition is accordingly rejected.

(A.P. BHANGALE, J.)

(A.S. OKA, J.)