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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6245 OF 2013

Laxman Tukaram and Anr.

..Petitioners.

V/s.

The State of Maharashtra and Ors.

..Respondents.

Mr.Gaurav Potnis i/b. Mrs.Pallavi Potnis for the petitioners.

Mr.N.P.Despande, AGP for respondent Nos.1 to 4.

**CORAM : A.S.OKA AND
V.L.ACHLIYA, JJ.**

DATED : 28TH SEPTEMBER, 2015

P.C. :-

1. Heard the learned counsel appearing for the petitioners. According to the case of the petitioners, they were the owners of the land more particularly described in paragraph 1 of the petition. A notification under sub-section (1) of Section (4) of the Land Acquisition Act, 1894 (for short 'the said Act') was issued on 14th June, 1994. The acquisition of the land was for the construction of the dam of the Bhama-Askhed Project. Even according to the case of the petitioners, award under Section 11 of the said Act was made on 30th April, 1997. For the first time, by a legal notice dated 29th October, 2012, the petitioners made a grievance regarding the failure of the State Government to allot a land for their re-settlement in accordance with the provisions of the Maharashtra Project Affected Person Rehabilitation Act, 1999. The present

petition is filed on 20th April, 2013 seeking a writ of mandamus directing the respondents to allot the land as per the choice of the owners from the land pool of Bhama-Akshed Project. Reliance is placed on the judgment and order dated 2nd May, 2011 in Writ Petition No.8385 of 2014 and other connected matters. The learned counsel appearing for the petitioners invited our attention to the averments made in the petition. His contention is that the Scheme as contemplated under Section 15 of the Maharashtra Project Affected Rehabilitation Act, 1999 was not published by the State Government.

2. Today, an additional affidavit has been filed by the petitioners which contains averments regarding the provisions of law and reliance is placed on an order dated 22nd April, 2013 passed by this Court in Civil Application No.209 of 2013 in Writ Petition No.263 of 2012.

3. Perusal of the petition shows that the petitioners were fully aware of the acquisition under the said Act and the fact that the award under Section 11 of the said Act was made on 30th April, 1997. There is no averment in the petition that at any time after 30th April, 1997 till 29th October, 2012, there is any representation made by the petitioners for seeking allotment of a land for their rehabilitation. The submission of the learned counsel appearing for the petitioners is that unless the scheme as contemplated under

Section 15 of the Maharashtra Project Re-habitation Persons Act, 1999 is proposed / formulated by the Government, there was no occasion for the petitioners to make any grievance.

4. The petitioners' lands were acquired on the basis of a notification of the year 1994. The acquisition was completed 30th April, 1997. Till 29th October, 2012, the petitioners have never made any grievance whatsoever about the failure of the respondents to allot a land for their rehabilitation. In the legal notice dated 29th October, 2012, there is no grievance made by the petitioners regarding the alleged failure of the respondents to formulate the proposal of rehabilitation in accordance with Section 15 of the Rehabilitation Act. The said grievance is made for the first time in the writ petition. Thus, the petition suffers from gross delay for which there is no explanation. The grievance regarding the failure to allot the land for rehabilitation was made for the first time on 29th October, 2012 i.e. 15 years after the award under Section 11 was passed. Even in the additional affidavit, there is no explanation for the delay.

5. Hence, only on the ground of gross unexplained delay, the petition deserves to be rejected. Accordingly, the petition stands rejected.

(V.L.ACHLIYA, J.)

(A.S.OKA. J.)