

nsc.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1074 OF 2015

Suleman Janmohammad Saleh

...Petitioner

v/s.

The Commissioner,

Municipal Corporation of Greater Mumbai and Ors. ...Respondents.

Mr.I.A.Siddiqui, for the Petitioner.

Mr.Kishore Jain a/w Minal Lodaya i/b Divya Jain, for the Respondent No.15.

Mr.M.S.Doctor, Senior Counsel a/w Mr.Gaurav Mehta i/b M/s. Bachubhai Munim & Co., for the Respondent Nos.4 and 5.

Ms.Shobha Ajitkumar, for the Respondent No.1 -BMC.

Mr.M.A.Sayeed, AGP for the Respondent – State.

**CORAM: A. S. OKA &
REVATI MOHITE DERE, JJ.**

DATED : 1st JULY, 2015.

P.C.

1. Heard the learned counsel appearing for the Petitioner.
2. The only substantive prayer in this petition under Article 226 of the Constitution of India is for declaring that the Award dated 15th January,

2007 is null and void.

3. The Award has been made under the provisions of Land Acquisition Act, 1894. The present petition has been affirmed on 20th February, 2015. The only explanation for delay which is offered in the petition is in paragraph 6. The relevant part of paragraph 6 reads thus :-

“6. The Petitioner first came to know in or about the year 2009 when the contractor came to the site of the Writ Property Part-1 and part-2, but the Petitioner had no award in his hands. The Petitioner submits that the Petitioner got the copy of the award from one of the parties whose property has been acquired by the said Award, and thereafter, started corresponding with the Respondent No.1, 2 & 4 and hoped and waited for long time that the said Respondents would take the necessary action against the concerned respondents, but said Respondents did not act.”

4. Our attention is invited to letter dated 11th October, 2010, addressed by the petitioner himself (Exhibit – 'V' to the petition). The relevant part of paragraph 1 of the said letter reads thus :-

“1. The Momin Gujarat Association has recently come across the Award declared on 15th day of January, 2007 and filed in the office of the Special Land Acquisition Officer no.7, Mumbai and Mumbai Suburban District, in respect of the Subject lands, and it transpires from para-'D' (Claim

of Ownership and Interested Persons) of the Award at page no.34 thereof that :.....”

5. The petitioner is claiming to be the Secretary of the said Momin Gujarat Association, which is the respondent no.6. What is stated in paragraph 1 clearly shows that on 11th October, 2010 the petitioner was aware of the award dated 15th January, 2007 and he was fully aware about the contents of the award. The fact that the petitioner was aware of the contents of the award atleast on 11th October, 2010 is not specifically disclosed in the petition. Moreover, even according to the case of the petitioner, the respondent no.6 which is a Society duly registered under the Societies Act, 1860 is the owner of the acquired land. The petitioner is claiming to be a Secretary of the respondent no.6 – Association.

6. The respondent no.6 has not come forward to challenge the acquisition. The petition suffers from an unexplained delay. Therefore, this is not a fit case where writ jurisdiction under Article 226 of the Constitution of India should be allowed to be invoked by the petitioner. The petition is accordingly rejected.

(REVATI MOHITE DERE,J.)

(A.S. OKA,J.)