

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3522/2014

(RAMRAO RAMDEO ARBAT & OTHERS **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri P.S. Kshirsagar, counsel for the petitioners.
 Shri A.M. Deshpande, A.G.P. for the respondents.

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

DATE : JUNE 10, 2015.

By this petition, the petitioners seek a declaration that the acquisition proceedings in respect of the lands of the petitioner have lapsed under the provisions of Section 24 of the Right To Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 as the petitioners are still in possession of the acquired land.

The land of the petitioners was acquired by the State of Maharashtra and the Award was passed by the Special Land Acquisition Officer on 28.03.1967. It is not in dispute that the petitioners received the compensation towards the acquisition of the land. It is the case of the petitioners that despite the acquisition of the land of the petitioners, the petitioners are retaining the possession of the land.

The respondent nos.2 and 3 have filed the affidavit-in-reply and certain documents are annexed thereto. It is specifically stated in the affidavit-in-reply that the possession of the land was secured from the petitioners on 14.04.1967. It is stated that the petitioners have signed the possession receipts. It is stated that since the compensation has been paid to the petitioners and the possession is secured from the petitioners in the year 1967, the provisions of Section 24(2) of the Act would not apply.

On hearing the learned counsel for the parties and on a perusal of the documents annexed to the affidavit-in-reply filed on behalf of the respondent nos.2 and 3, it appears that there is no substance in the submission made on behalf of the petitioners. The possession receipts and the other documents filed by the respondents on record clearly show that the petitioners had lost the possession of the land in the year 1967. Merely because the respondents may not have utilized the land for the purpose for which it was acquired, the petitioners cannot seek the benefit of Section 101 of the Right To Fair Compensation and Transparency in the Land Acquisition, Rehabilitation and Resettlement Act, 2013 as, admittedly, the land was not acquired under the provisions of the Act of 2013 and was acquired under the provisions of the Land Acquisition Act, 1894, in the year 1967. Since none of the conditions mentioned in the provisions of Section 24 of the Act of 2013 for deemed lapsing of the acquisition proceedings are fulfilled in this case, the declaration as sought by the petitioners cannot be granted.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

JUDGE

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