

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 3333 OF 2015

NAZIR KARIM SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mrs.Madhaveshwari Thube (Mhase)
AGP for Respondents: Miss S.S. Raut.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE :25TH JULY , 2016.

PER COURT:

1] Rule. Rule made returnable forthwith. Heard finally by consent of parties.

2] Mrs. Thube-Mhase, learned counsel for the petitioner submits that land of the petitioner alongwith other persons situated at village Kokalgaon, Taluka Nilanga was acquired for rehabilitation purpose vide order dated 21.12.1999. According to learned counsel, the total land acquired vide the said award is admeasuring 11 Hectares 9 R. The respondents have released land admeasuring 4 Hectare 74 R from the said acquisition. According to learned counsel, petitioner time and again made representations to the respondent to delete the entry of acquisition from land of the petitioner or to allot the alternate land. The Circle Officer also communicated to respondent No.4 about the request of the petitioner, however, no decision is taken by the respondents. Some of the owners whose land has been acquired are allotted alternate land. Learned counsel submits that even the petitioner has till date not received any amount of compensation nor possession of the land of the petitioner which was acquired vide award dated 21.12.1999 has been taken by the respondents. The possession of the land still vests with the petitioner. According to learned counsel, in view of the provisions of sub-section (2) of Section 24 of

the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (For short, “The Act of 2013”), the acquisition stands lapsed.

3] Learned AGP submits that the land acquired vide award dated 21.12.1999 is required by the respondents. Land that is released is as per the resolution of the Gram Panchayat. Petitioner was issued a notice under Section 12 (2) of the Land Acquisition Act, 1894 to receive compensation amount. As the petitioner did not come forward to receive the compensation amount, same is deposited in K-Deposit of Personnel Ledger Account maintained by the SLAO. According to learned AGP, petitioner did not give possession of the land acquired nor withdrew the amount of compensation lying in PLA Account of the SLAO. The writ petition is filed after 16 years . Petitioner is not entitled for any rental compensation.

4] We have considered the submissions canvassed by the learned counsel for the respective parties. It is not disputed that the land of the petitioner admeasuring 85 R from Gat No. 95B situated at villgae Kokalgaon, Taluka Nilanga, is acquired vide award dated 21.12.1999 for rehabilitation purpose. The respondents have filed affidavit of the Naib Tahsildar dated 16.7.2016, thereby accepting that the land of these persons, in respect of whom resolutions have been passed by the Gram Panchayat of village Kokalgaon, has been deleted from acquisition/award. It is further admitted in the said affidavit in reply by the respondents, that the possession of the land of the petitioner has not been taken by the respondents. The possession of the land acquired vide award dated 21.12.1999 till vests with the petitioner, so also, it is admitted that the amount of compensation under the said award has not been paid to the petitioner, and is kept in PLA account with the SLAO. Same does not tantamount to payment, as has been held in the matter of *Pune Municipal Corporation vs. Harakchand*, reported in 2014 (4) Mh.L.J. 566.

5] In view of Section 24(2) of the Act of 2013 as the possession has not been taken for more than 5 years after the award has been passed, nor compensation is paid, the acquisition proceeding, in respect of said land admeasuring 85 R from Gat No. 95B vide award dated 21.12.1999, stands lapsed. The respondents are entitled to withdraw the amount of compensation deposited in PLA account with the SLAO. Pursuant to the present order, necessary correction be carried out in the revenue record. It is made clear that this order would not be an impediment for the respondent authorities to initiate fresh acquisition, if they so desire.

6] Rule made absolute in above terms, with no orders as to costs.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-