

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.7489/2013

Bhagirathi W/o Gangadhar Bhujbal & Another.

..Petitioners..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri U.R.Awate, Advocate for petitioners.

Smt.P.V.Diggikar, AGP for respondent nos.1 to 3.

Shri A.V.Hon, Advocate for for respondent no.4.

.....

**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 15.11.2016

ORDER :

1] Mr.Awate, learned counsel for the petitioners submits that the petitioners are entitled for the compensation as per the new Act. The provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, would apply in the present case. The learned counsel further submits that even the award

- 2 -

is not passed within two years from the declaration u/s 6 of the Land Acquisition Act, 1894. The learned counsel further submits that the award is passed in the name of husband of petitioner no.1 namely Gangadhar Bhujbal and the petitioner no.2 is their son. Gangadhar Bhujbal is missing and not heard of since 1998. The learned counsel submits that as per the civil jurisprudence, a person if he is unheard for seven years and more, is deemed to be dead.

2] The learned AGP submits that from the date of issuance of corrigendum to declaration u/s 6 of the Land Acquisition Act, the award is passed within two years and as such bar of Section 11 would not apply. The affidavit is filed on record stating that if the compensation is not paid, then the same would be computed as per the new Act.

3] Considering the contentions of the learned counsel for the respective parties and also going through the affidavit in reply filed by the respondent no.3, it is manifest that the respondents have agreed to pay compensation as per the new Act. Paragraph no.10 of the affidavit in reply reads as under:-

"10] With reference to para No.12 and 13 of the petition, I say and submit that, the contentions raised in this paragraph are not true and correct and hence not admitted to these respondents. In the present case the land has been acquired as per the provisions of section 126 of MRTP Act and therefore the provision laid down in section 11(A) of the Land Acquisition Act is not applicable in the present case. It is further respectfully submitted that in the meanwhile new Act came into force namely Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 w.e.f. January, 2014. In pursuance of the new Act Government has issued the circular dated 09/05/2014 informing that if award is passed u/s 11 of the old Act on or before 31/12/2013 and if payment of compensation is not paid as per said award then authorities are directed to pay amount of compensation as per new Act. In this view of the matter the amount of compensation will be paid to the concern persons. It is submitted that Hon.High Court pleased to pass order dated 13/09/2013 to maintain status quo was Rs.12 lacks. Now the amount of award is increased & today it is approximately Rs.21 lacks. Therefore it is

- 4 -

humble request to dismiss the petition at early as possible & save the money of government & also inconvenience of Sai Devotees. Copy of circular dated 09/05/2014 is annexed herewith and marked as **EXHIBIT R-1."**

4] Considering the said affidavit filed by the respondent no.3 and the fact that the respondents have agreed to pay compensation as per the new Act, the respondents shall compute the compensation as per the new Act and make the payment accordingly. As far as the contention of the petitioners that the award is passed in the name of husband of the petitioner no.1 and father of the petitioner no.2, who is unheard since 1998 and the same tantamounts to civil death, the petitioners may represent this fact before the authority concerned. The authority shall consider the said aspect and take appropriate steps expeditiously accordingly. Writ petition is disposed of accordingly. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)