

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2971 OF 2016

1. Karbhari Laxman Dighe,
Age : 75 Years, Occu. : Agril.,
R/o Kolhewadi, Tq. Sangamnerr,
Dist. Ahmednagar. .. Petitioner

Versus

1. The State of Maharashtra,
Through its Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai - 32.
2. The Collector, Ahmednagar,
Dist. Ahmednagar.
3. The Special Land Acquisition Officer,
No. 19 having office at Ahmednagar
At Ahmednagar. .. Respondents

Shri S. K. Shinde, Advocate for the Petitioner.

Shri S. P. Sonpawale, A.G.P. for Respondent Nos. 1 to 3.

**CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.**

DATE : 04TH APRIL, 2016.

ORAL JUDGMENT (Per S. V. Gangapurwala, J) :-

. Notice was issued on 14.03.2016. The learned Assistant Government Pleader had waived notice for respondents. At the request of learned A. G. P. the matter was adjourned to

28.03.2016. On 28.03.2016 the matter was adjourned to 04.04.2016 at the request of the learned A. G. P. for enabling him to take instructions.

2. Mr. Shinde, the learned counsel states that, the award dated 08.03.1996 in respect of land of the petitioner bearing Sy. No. 929 admeasuring 81R situated at village Kolhewadi, Tq. Sangamner, Dist. Ahmednagar is illegal and bad in law and deserves to be quashed and set aside as it is not passed within two years from the date of publication of declaration U/Sec. 6 of the Land Acquisition Act (for short "L. A. Act"). The learned counsel relies on the judgment of the Division Bench of this Court in a case of **Mahesh Shivaji Dighe and another Vs. State of Maharashtra and others** reported in **2004(4) Mh. L. J. 614**.

3. Mr. Shinde, the learned counsel further submits that, another Division Bench of this Court in Writ Petition No. 1003 of 2013 vide judgment and order dated 20th June 2013 has followed the same course and set aside the award to the extent of petitioners in the said writ petition.

4. The learned counsel submits that, the petitioner herein has not filed any reference U/Sec. 18 of the L. A. Act, nor he has been paid amount of compensation pursuant to the award dated

08.03.1996 till date.

5. Mr. Sonpawale, the learned Assistant Government Pleader submits that, in the earlier judgment of this Court in a case of **Mahesh Shivaji Dighe and another Vs. State of Maharashtra and others** referred to supra, this Court has not considered that subsequently corrigendum was published on 12.07.1994 and 09.07.1994 that would explain the period of time within which award U/Sec. 11 has to be passed.

6. We have considered the submissions canvassed by learned counsel for respective parties.

7. It is not disputed that, the award pursuant to which the land of the present petitioner was acquired was subject matter of consideration by this Court in a case of **Mahesh Shivaji Dighe and another Vs. State of Maharashtra and others** referred to supra., so also in Writ Petition No. 1003 of 2013. This Court had set aside the award on the ground that, same is not passed within a period of two years of declaration U/Sec. 6 of the L. A. Act. In the present case, the petitioner's land being acquired pursuant to the same award shall naturally receive the same fate.

8. There is an additional ground to consider the case of the

petitioner. The petitioner states that, till date the petitioner has not been paid any compensation amount pursuant to the award dated 08th March, 1996, in view of Sec. 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition Act (for short "Right to Fair Compensation Act") stands lapsed. Though the same is not a ground raised in the present writ petition, but the petitioner has stated that he has not received any amount of compensation till date pursuant to the said award, relying on the said statement the provisions of Sec. 24(2) of the Right to Fair Compensation Act can be made applicable.

9. In the light of the above, the writ petition is allowed. The award dated 08.03.1996 to the extent it relates to the land of the petitioner is quashed and set aside. Pursuant to the said award being quashed and set aside, the petitioner may approach the revenue authorities for correction of mutation entry.

Rule accordingly is made absolute in above terms. No costs.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/April 16