

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

WRIT PETITION NO. 5360 OF 2004

1. Sau. Swati Girish Shette,
Age : 42 Years, Occu. : Agriculture and
Household, R/o. Latur Road, Tuljapur,
Tq. : Tuljapur, Dist. : Osmanabad
2. Prafulakumar Shashibhan Shette,
Age : 40 Years, Occu. : Business,
R/o. : C/o. Mahesh Auto, Osmanabad Road,
Tuljapur, Dist. : Osmanabad
3. Usha Ramesh Magar,
Age : 35 Years, Occu. : Household,
R/o. Hotel Vishwanath Corner,
Latur Road, Tuljapur, Tq. Tuljapur,
Dist. : Osmanabad .. Petitioners

Versus

1. The State of Maharashtra,
Through Secretary,
Urban Development Department,
Maharashtra State, Mantralaya,
Mumbai
2. The Sub-Divisional Officer and
Land Acquisition Officer,
Osmanabad, Dist. : Osmanabad
3. The Collector,
Osmanabad, Dist. : Osmanabad.

4. The Municipal Council,
Tuljapur, Tq. Tuljapur,
Dist. : Osmanabad,
Through its Chief Officer .. Respondents

Shri V. D. Salunke, Advocate for Petitioners.

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

Shri K. K. Kulkarni, Advocate for the Respondent No. 4.

**WITH
WRIT PETITION NO. 5458 OF 2009**

Devidas S/o Dattatraya Rajapure,
Age : 41 Years, Occu. : Business and
Service, R/o. Tuljapur, Tq. : Tuljapur,
Dist. : Osmanabad .. Petitioner

Versus

1. The State of Maharashtra,
Through the Secretary,
Urban Development Department,
Maharashtra State, Mantralaya,
Mumbai-32
2. The Sub Divisional Officer and
Land Acquisition Officer,
Osmanabad
3. The Collector,
Osmanabad, Dist. : Osmanabad
4. The Tahsildar,
Tuljapur, Tq. : Tuljapur,
Dist. : Osmanabad

5. The Municipal Council,
Tuljapur, Tq. : Tuljapur,
Through its Chief Officer .. Respondents

Shri B. R. Sontakke Patil, Advocate for the Petitioner.
Shri A. P. Basarkar, A. G. P. for Respondent Nos. 1 to 4.
Shri K. K. Kulkarni, Advocate for the Respondent No. 5.

**CORAM : S. V. GANGAPURWALA AND
A. M. BADAR, JJ.**

DATE : 12TH FEBRUARY, 2016.

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

. The petitioners assail the award dated 04.04.2003.

2. Mr. Salunke, the learned counsel submits that, though the award is passed, possession has not been taken by the respondents because of interim orders passed by this Court on 02nd September, 2004 which is subsequently continued.

3. Mr. Kulkarni, the learned counsel appears for the respondent / Municipal Council.

4. The learned A. G. P. states that because of the order of status quo passed by this Court, the possession could not be taken by the respondent/State.

5. The undisputed fact is that the award is passed on 04.04.2003. The possession is still with the land owners as

status quo order was granted by this Court.

6. In view of Section 24(2) of the Land Acquisition Act, if, the possession is not taken within a period of five years from the date of passing of award, the acquisition stands lapsed as is held by the Apex Court in a case of **Karnail Kaur and others V/s. State of Panjab and others** reported in **2015 (3) SCC 206**.

7. In light of the above, we need not go into the other grounds raised in the present petitions as the acquisition stands lapsed.

8. In light of the above, Rule is made absolute in terms of prayer clause "B" in Writ Petition No. 5360 of 2004 and prayer clause "C" in Writ Petition No. 5458 of 2009. No costs.

Sd/-

[A. M. BADAR, J.]

Sd/-

[S. V. GANGAPURWALA, J.]