

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

**WRIT PETITION NO. 5049 OF 2015**

- 1] Murlidhar s/o Rama Vir  
Age 60 yrs, Occ-Agril  
R/o A/o Golatgaon  
Ta. And Dist.Aurangabad.
- 2] Dagdu s/o Rama Vir  
Age 65 yrs, Occ-Agril  
R/o A/o Golatgaon  
Tq. & Dist.Aurangabad
- 3] Shamrao s/o Rama Vir  
Age 55 yrs, Occ-Agril  
R/o A/o Golatgaon  
Tq. & Dist.Aurangabad
- 4] Ashok s/o Gunjaba Ghongde  
Age 50 yrs, Occ-Agril  
R/o A/o Golatgaon  
Tq. & Dist.Aurangabad
- 5] Govind s/o Shivilal Kahite  
Age 60 yrs, Occ-Agril  
R/o A/o Golatgaon  
Tq. & Dist.Aurangabad

- 6] Shamsing s/o Shivilal Kahite  
Age 48 yrs, Occ-Agril  
R/o A/o Golatgaon  
Tq. & Dist.Aurangabad
- 7] Bharat s/o Shivilal Kahite (Died)  
Through his legal heir -  
Smt.Ramkorbai Bharat Kahite  
Age 45 yrs, Occ-Agril and household,  
R/o A/o Golatgaon  
Tq. & Dist.Aurangabad
- 8] Rupchand s/o Jayram Kahite  
Age 75 years, Occ-Agril  
R/o A/p Golatgaon  
Ta. & Dist.Aurangabad. ..PETITIONERS

## VERSUS

- 1] The State of Maharashtra  
Through its Secretary  
Revenue & Forest Department  
Mantralaya, Mumbai-400 032  
(Copy to be served on Govt.  
Pleader, High Court of Judicature  
of Bombay, Bench at Aurangabad.)
- 2] Divisional Commissioner  
Aurangabad.

- 3] Collector, Aurangabad
- 4] Special Land Acquisition Officer  
& Deputy Collector (Land  
Acquisition) Krishna Khore  
Vikas Mahamandal, Aurangabad
- 5] The Executive Engineer  
Minor Irrigation, Division No.1  
Aurangabad. .. RESPONDENTS

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Shri S.B.Talekar and Awate U.R. Advocates for petitioners

Shri A.P.Basarkar, AGP for respondent State

Shri Sudhir G. Bhalerao, Adv. For respondent no.5.

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

**DATED : 16TH FEBRUARY,2016**

**ORAL JUDGMENT [PER S.V.GANGAPURWALA,J.]**

Rule. Rule made returnable forthwith. With consent of parties,  
Petition is taken up for final hearing.

- 2] Mr.Talekar, learned counsel for petitioner states that the land  
of the petitioner was sought to be acquired for construction of minor  
irrigation project known as Kaudgaon Minor Irrigation Project. The

notification under Section 4 of the Land Acquisition Act was issued on 11/9/2012. Thereafter, declaration under Section 6 was issued on 19/3/2013. However, the award was not passed within period of two years as required under Section 11-A of the Land Acquisition Act, 1894. According to the learned counsel there was no impediment for the respondent authority to pass the award within stipulated period of two years since the issuance of declaration under Section 6 of the Land Acquisition Act. In absence of the award been passed within two years, the said acquisition proceeding stands lapsed. The learned counsel further submits that Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into force w.e.f. 1/1/2014. According to the learned counsel, if no award is passed under Section 11 of the Act of 1894, then all the provisions of the Act of 2013 applies with regard to determination of compensation. As per Section 25 of the Act of 2013, award under the said Act has to be made within 12 months from the date of publication under Section 19 of the Act of 1894. Till the date of filing of the Writ Petition, award was not passed. The learned counsel submits that taking provisions of either of the Statute, the acquisition proceeding stands lapsed.

3] Mr.Basarkar, learned AGP submits that there were many lands under acquisition. In Writ Petition No.4274/2014 there was an interim order passed by this Court thereby staying the execution and implementation of notification dated 19/3/2014 as the compensation was to be computed as per the new Act, the award could not be passed. The learned AGP submits that the said time is required to be excluded. Only because the stay is granted the project cost is mounting. In respect of other lands, subsequent to the filing of present petition the award has been passed but as stay is granted by this Court, the further award could not be passed in present matter.

4] We have considered submissions. The following dates are not disputed.

(1) Notification under Section 4 of the Land Acquisition Act is issued on 11/9/2012; (2) Declaration under Section 6 of the Land Acquisition Act of 1894 is issued on 19/3/2013 and (3) No award was passed till this Court passed order on 5/5/2015 in the present Writ Petition.

5] As per Section 11-A of the Act of 1894, the award has to be passed within period of 2 years from the declaration under Section 6. Two years lapsed on 18/3/2015.

6] Section 24(1) of the Act of 2013 lays down that if no award under Section 11 of the said Land Acquisition Act of 1894 is made, then all provisions of this Act relating to determination of compensation apply.

7] No doubt there was stay to the notification issued by the State under Schedule-I regarding determination of the compensation. However, there was no stay to the passing of the award by this Court. There was no impediment for the respondents to pass award. The said notification was subsequently quashed by this Court vide judgment and order dated 9/3/2015.

8] Even as per Section 25 of the Act of 2013, the award under the said Act is to be made within period of 12 months from the date of publication under Section 19, unless otherwise time is extended. Even as per the said stipulation the award is not passed. Even if we consider declaration under Section 6 of the Act of 1894 to be the

relevant date the award is not passed within stipulated period.

9] Taking the case either way, under any of the Statutes i.e. under Acquisition Act of 1894 or under new Act of 2013, the acquisition proceedings would stand lapsed.

10] In the result, the acquisition proceeding pursuant to the impugned declaration are quashed and set aside. However, the present order would not be an impediment for the respondent to initiate fresh acquisition in accordance with law. Rule is accordingly made absolute. No costs.

**(A.M.BADAR,J.)**

**(S.V.GANGAPURWALA,J.)**

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