

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

Writ Petition No. 6125 of 2015

District : Osmanabad

Suhas s/o. Mohanrao Hangargekar,
Age : 45 years,
Occupation : Service,
R/o. Arya Chowk, Tuljapur,
Taluka : Tuljapur,
District : Osmanabad.

.. Petitioner.

versus

1. The State of Maharashtra,
Through its Secretary,
Irrigation Development Department,
Mantralaya, Mumbai - 400 032.
2. The Collector,
Osmanabad,
District : Osmanabad.
3. The Special Land Acquisition Officer,
Khrushna Khore Vikas Mahamandal,
Osmanabad.
4. The Chief Executive Officer,
Irrigation Project,
Division Omerga.
5. The Superintendent of Land Record,
Tuljapur, Taluka : Tuljapur,
District : Osmanabad.

.. Respondents.

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Mr. Vikas S. Tanwade, Advocate, for the petitioner.

*Mr. A.M. Phule, Asst. Government Pleader, for
respondent nos.1, 2, 3 and 5.*

*Mrs. Kalpalata Patil (Bharaswadkar), Advocate, for
respondent no.4.*

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

DATE : 24TH FEBRUARY 2016

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

1. Heard Adv. Mr. V.S. Tanwade for the petitioner, the learned AGP Mr. A.M. Phule for respondent nos.1, 2, 3 and 5, and Adv. Mrs. Kalpalata Patil (Bharaswadkar) for respondent no.4.
2. Rule. Rule made returnable forthwith. By consent of the learned Counsel for the parties, heard finally.
3. Mr. Tanwade, the learned Counsel for the petitioner, submits that the possession of the petitioner's land has been taken by respondent no.4 in the year 2011. The notification under Section 4 of the Land Acquisition Act 1894 [**For short, hereinafter referred to as “Act of 1894”**] was issued on 23rd February 2011. The learned Counsel submits that thereafter no further steps are taken by the respondent - Corporation. The declaration under Section 6 of the Act of 1894 has to be issued within one year from the notification under Section 4. As the same is not issued, the

acquisition proceedings stand lapsed. According to the learned Counsel, the respondents be directed to initiate fresh acquisition proceedings under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 **[For short, hereinafter referred to as “Act of 2013”]**.

4. Mrs. Patil (Bharaswadkar), the learned Counsel for respondent no.4, submits that the possession has already been taken by the respondents in the year 2011. The notification under Section 4 of the Act of 1894 has been issued on 23rd February 2011. The proceedings are at pre-award stage. Final award has not been passed. The compensation can be paid as per the Act of 2013. There is no question of reverting back the land to the petitioner.

5. We have considered the submissions of respective parties. The Act of 2013 came into force from 1st January 2014. In the present case, notification under Section 4 of the Act of 1894 was issued on 23-2-2011. As per Section 6 of the Act of 1894, declaration has to be within a period of one year from the date of notification under Section 4 of the Act. In the present case, one year from the notification under Section 4 lapsed on 23rd February 2012. Admittedly, declaration under Section 6 was never issued till the Act of 2013 came into force nor it is issued till date.

6. In the light of the above, the Writ Petition is allowed.

The acquisition proceedings initiated in respect of land of the petitioner in Gut No. 283, admeasuring 1 Hectare 20 Are, situated at

village Sangvi (Mardi) [Taluka : Tuljapur, District : Osmanabad] vide notification under Section 4 of the Act of 1894, dated 23rd February 2011, stand lapsed and it is hereby declared that the said acquisition proceedings stand lapsed. The respondents will have to initiate fresh acquisition proceedings under the Act of 2013. The respondents, if they are desirous of retaining the land, shall take up acquisition proceedings under the Act of 2013 and shall initiate the said proceedings within a period of three months from today.

7. Rule is made absolute in the above terms. No costs.

(A.M. BADAR)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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