

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

WRIT PETITION NO. 7066 OF 2015

1. Putalbai W/o Bhimrao Mule
Aged about 77 years, Occupation
Household and Agriculturer, R/o
Daithana, Taluka Kaij, District
Beed.
2. Narhari S/o Bhimrao Mule,
Died through Legal Representative
- 2A. Wachistha S/o Narhari Bhimrao Mule,
Aged about 32 years, Occupation
Household and Agriculturer,
R/o Daithana, Taluka Kaij,
District Beed.
3. Jivan S/o Bhimrao Mule,
Aged about 57 years, Occupation
Agriculture, R/o Daithana, Taluka
Kaij, District Beed.
4. Parmeshwar S/o Bhimrao Mule,
Age about 53 years, Occupation
Agriculture, R/o Daithana, Taluka
Kaij, District Beed.
5. Angad S/o Bhimrao Mule,
Aged about 54 years, Occupation
Agriculture, R/o Daithana, Taluka
Kaij, District, Beed.
6. Sumant S/o Bhimrao Mule,
Aged about 50 years, Occupation
Agriculture, R/o Daithana, Taluka
Kaij, District Beed.
7. Bhimrao S/o Abarao Mule,
Age about 80 years, Occupation
Agriculture, R/o Daithana, Taluka
Kaij, District Beed.

...PETITIONERS

versus

1. The State of Maharashtra,
2. The Divisional Commissioner,
Aurangabad Division, Aurangabad.
3. Sub-Divisional Officer and Land
Acquisition Officer No. 1, Bhoom.
4. The Collector, Osmanabad. ...RESPONDENTS

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Mr. Ajinkya Reddy, Advocate for petitioners
Smt. S.S. Raut, AGP for respondents No. 1 to 4
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**CORAM : S. V. GANGAPURWALA AND
K.K. SONAWANE, JJ.**

DATED : 7th JULY, 2016.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. Mr. Reddy, learned counsel for petitioners submits that the petitioners are owners and possessors of land survey No. 4-A to extent of 1 Hectare, 60 Aar situated at village Bahula, Ta. Kallam, District Osmanabad. Vide award dated 29-03-1988, aforesaid land of these petitioners was acquired for the purpose of extension of Gaothan. The petitioners had challenged said award by filing writ petition No. 810 of 1988. This Court initially granted stay, and as such, the respondents did not take possession of the land. Writ Petition was finally dismissed vide judgment and order dated

7/8-02-2001. In spite of the fact that said writ petition was dismissed in February, 2001, still till date respondents have not taken possession of said land. According to learned counsel in view of provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (for short "Act of 2013") acquisition stands lapsed.

3. Learned Assistant Government Pleader states that Tahsildar has received documents from Circle Officer such as Gram Panchayat Resolution No. 5 stating that Gram Panchayat has passed resolution to the effect that land survey No. 4-A situated at village Bahula, Ta. Kallam, District Osmanabad i.e. acquired land is not suitable for rehabilitation or extension of Gaothan and this land is not required. According to learned AGP, amount of compensation pursuant to the order dated 29-03-1988 was deposited on 13-09-1988. Learned Assistant Government Pleader submits that it is because of the stay operating in the earlier writ petition possession could not be taken. According to Mr. Reddy petitioners had not withdrawn said amount.

4. We have considered the submissions canvassed by learned counsel for respective parties. It is not disputed that till date possession of the writ land has not been take by respondents authorities though award is passed in the year 1988. It is also not disputed that after dismissal of writ petition No. 810 of 1988 in February, 2001 there were no prohibitory orders operating against respondents to take possession. In view of the that, provisions of

sub-section (2) of Section 24 of the Act of 2013 would squarely apply and acquisition shall stand lapsed.

5. In light of the above, acquisition proceedings vide award dated 29-03-1988 in respect of land from Survey No. 4-A to extent of 1 Hectare, 60 *Aar* of the petitioners situated at village Bahula, Ta. Kallam, District Osmanabad stands lapsed.

6. Writ petition is allowed in aforesaid terms. Rule is made absolute accordingly. No costs.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

MTK