

UNREPORTED**IN THE HIGH COURT OF JUDICATURE AT****BOMBAY****BENCH AT AURANGABAD.****WRIT PETITION NO.8095 OF 2015.**

1. Umaji Shankar Bhagwat,
Age 48 years, Occ.Agric.,

2. Revji Raoji Arote,
(Dead through L.R.)

2-A. Shivaji Revji Arote
Age 53 years, Occ.Agric.,

3. Vitthal Ganpat Arote,
(Dead through L.R.)

3-A Waman Vittal Arote,
Age 43 years, Occ.Agric.,

4. Kashinath Ramchandra Arote,
Age 74 years, Occ.Agric.,

5. Sadashiv Dada Arote,
Age 45 years, Occ.Agric.,

6. Bhikaji Mahadu Arote,
(Dead through L.R.)

6-A. Ashok Bhikaji Arote,
Age 35 years, Occ.Agric.,

7. Ramkrishna Baburao Arote,
(Dead through L.R.)

7-A. Vijay Ramkrishna Arote,
Age 65 years, Occ.Agric.,

8. Madhukar Damodhar Sonwane,
Age 65 years, Occ.Agric.,

9. Sambhaji Bahiru Sonwane,
Age 55 years, Occ.Agr.,

10. Shivaji Bahiru Sonwane,
Age 50 years, Occ.Agr.,

11. Yeshwant Ramji Sonwane,
Dead through L.R.

11-A. Dayanand Yeshwant Sonwane,
Age 52 years, Occ.Agr.,

12. Maruti Waman Arote,
Age 55 years, Occ.Agr.,

13. Arjuna Narayan Arote,
Dead through L.R.

13-A. Maruti Arjuna Arote,
Age 45 years, Occ.Agr.,

13-B. Radhakrishna Arjuna Arote,
Age 40 years, Occ.Agr.,

14. Rama Nana Arote,
Dead through legal heirs.

14-A. Narayan Maruti Arote,
Age 50 years, Occ.Agr.,

15. Rangnath Ramdas Arote,
Age 34 years, Occ.Agr.,

16. Madhukar Sahadu Arote,
Age 35 years, Occ.Agr.,

17. Sadashiv Sahadu Arote,
Age 30 years, Occ.Agr.,

18. Tukaram Mahadu Arote,
Dead through legal heirs

18-A. Vasant Tukaram Arote,
Age 60 years, Occ.Agr.,

19. Ramnath Keshav Arote,
Age 50 years, Occ.Agr.,

20. Tanaji Keshav Arote,
Age 51 years, Occ.Agri.,

21. The Village Grampanchayat,
Chiltalwedhe, Tq. Akole,
Dist.Ahmednagar, through
its Member Shri Vasant
Tukaram Arote, Age 60 years,
Occ.Agri.,

All R/o Chitalvedhe, Tq.
Akole, Dist.Ahmednagar. ... Petitioners.

Versus

1. The State of Maharashtra,
through its Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32.

2. The Additional Commissioner,
Nashik Division, Nashik.

3. The Collector, Ahmednagar,
Dist.Ahmednagar.

4. The Executive Engineer,
Uppar Pravara Dam Division,
Sangamner (Ghulewadi),
Tq.Sangamner, Dist.
Ahmednagar. ... Respondents.

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Mr.S.K.Shinde, advocate for the petitioners.
Mr.S.B.Pulkundwar, A.G.P. for Respondent Nos.1 to
3.
Mr.Ruturaj Patil, advocate for Respondent No.4.

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

Date : 08.06.2016.

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

1. Heard.

2. Rule. Rule returnable forthwith. With the consent of the parties, the petition is taken up for final hearing.

3. Mr.Shinde, learned counsel for the petitioners submits that the lands of the petitioners were acquired for the purpose of construction of Dam on river Pravara. The awards came to be passed in respect of petitioners from the years 1980 to 1987. According to the learned counsel, the possession of the land has not been taken either by the State or the acquiring body nor the amount of compensation is paid to the petitioners. Learned counsel submits that even the said project is shifted to another place. As such the lands are also not required by the Respondents. According to the learned counsel, in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act,

2013, the acquisition stands lapsed.

4. Mr.Patil, learned counsel for Respondent No.4 submits that the possession of 4 Ares land is taken from the land owned by the petitioner Nos.16 and 17 and the possession of the land of the remaining petitioners have not been taken in possession though the award is passed. The amount of compensation is deposited by the acquiring body with the Treasury. As such it can not be said that the compensation is not paid. It was for the petitioners to withdraw the said compensation amount.

5. We have heard learned A.G.P. also.

6. It is a fact that the lands of the petitioners were acquired through different awards passed in the years 1980 to 1987. It is not disputed that the possession of the lands acquired of all the petitioners except 4 Ares land of petitioner Nos.16 and 17 has not been taken by the acquiring body or the State. In view of Section 24(2) of the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, as the possession has not been taken for a period of 5 years after the date of award been passed, the said acquisition stands lapsed.

7. As far as land of the petitioner Nos.16 and 17 is concerned, it is not disputed that the 4 Ares land acquired has been utilised by the acquiring body i.e. the possession has been taken. The compensation has been deposited with the Treasury. The Apex Court in the case of **"Pune Municipal corporation and another Vs. Harakchand Misirimal Solanki and others"** reported in **AIR 2014 Supreme Court 982**, has held that deposit of the amount with the Treasury is not akin to making payment, as such Section 24(2) would still apply.

8. In the result, we pass the following order :

a) The awards passed in respect of the land of the petitioners as detailed in prayer clause C-1 are quashed and set aside and the lands of the

petitioners stand released from acquisition. As far as petitioner Nos.16 and 17 are concerned, the possession of their 4 Ares land has been taken by the acquiring body and the same has also been utilised. The Respondents shall pass a fresh award in respect of 4 Ares land of petitioner Nos.16 and 17 as per provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The steps shall be taken in this regard within six (6) months from today.

- b) Pursuant to the orders of this Court, the petitioners may approach the Revenue authorities for effecting necessary mutation entries.
- c) The acquiring body is entitled to withdraw the amount lying with the Treasury.
- d) Rule accordingly made absolute in above terms. No costs.

Sd/-
(K.K.SONAWANE, J.)

Sd/-
(S.V.GANGAPURWALA, J.)

