

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7934 OF 2015

LAXMAN GAJARAM DATIR AND ANOTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. C.K. Shinde
AGP for Respondents: Mrs. A.V. Gondhalekar.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE :25TH JULY , 2016.

PER COURT:

1] Rule. Rule made returnable forthwith. Heard finally by consent of parties.

2] Mr. Shinde, learned counsel for the petitioner submits that on 3rd September, 2005, the Collector, Beed, accorded administrative sanction for construction of village tank No.13, at Kada/Shirapur, Taluka Ashti, Dist. Beed, under the EGS. Even joint measurement of the land required for the tank was done on 24.7.2007. Proposal was submitted by the Acquiring Body. Notification under Section 4 of the Land Acquisition Act was issued on 20.12.2007. On 14.8.2008, declaration under Section 6 of the Land Acquisition Act was also published. On 11.10.2009, the award was declared. However, compensation is not paid nor possession of the subject land has been taken by the respondents. However, subsequent to the passing of the award. Possession of the subject land is taken for construction of percolation tank no. 3 on 20/12/2013 and in 2014, the construction of the said percolation tank is completed. However, petitioner has not been paid the amount of compensation under the award dated 11.10.2009 As such, in view of Section 24(2) of the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

the acquisition stands lapsed.

3] Mrs. Gondhalkar, learned AGP submits that affidavit in reply is filed by respondent Nos. 2 and 4 so also, by respondent No.3, thereby clarifying that if the Acquiring Body, i.e. Small Scale Irrigation Water Conservation Division, sends a proposal, same will be considered under the provisions of the new Act and award will be passed as per the provisions of the new Act.

4] The respondent Nos. 2 and 4 have also filed their affidavit, stating that at the earliest, the required proposal for acquisition of the said land of the petitioner would be submitted with the office of the Collector under the new Act.

5] We have considered the submissions. The award is passed in the year 2009, it is not disputed by the respondents that the amount of compensation under the said award has not been paid to the petitioner. Possession of the writ land of the petitioner has been taken by the respondents, after the award has been passed. The construction of tank is also completed in the year 2014. Earlier the administrative sanction was granted for the construction of percolation tank under the EGS. Same did not fructify and subsequent to the passing of the award, construction of the tank has been completed. As the construction of the tank is already completed, no question arises of delivery of possession of the land back to the petitioner, and it would be appropriate to direct the authorities to take up a fresh acquisition proceeding.

6] It is not disputed that as yet compensation amount has not been paid to the petitioner under the award of the year 2009. The said acquisition proceedings would stand lapsed in view of sub-section (2) of Section 24 of the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. Even the respondents have fairly stated in the affidavit in reply that the respondent

Nos. 2 and 4 would submit a proposal for acquisition of land under the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 immediately and then award would be passed. The respondents/Acquiring Body/Concerned Department shall send a proposal seeking acquisition of the writ land of the petitioner, expeditiously and preferably within 3 months. The proceedings thereafter shall be completed within the time stipulated under the The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7] Rule made absolute in above terms. Writ petition stands disposed of. No costs.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-