

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6997 OF 2014**

Shri. Bapu K. Kurane
(since deceased through heirs
1A. Smt. Suguna B. Kurane
and ors.) and ors.

.. Petitioners

V/s.

The State of Maharashtra and ors.

.. Respondents.

Mr. Avinash B. Patil for the Petitioner.

Mr. N.P. Deshpande, Addl. GP for the Respondent-State.

**CORAM: DR. MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.**

DATE : 30 AUGUST 2016.

P.C.

1] The challenge in this petition is to the land acquisition proceedings, which culminated in an award made in April 1984.

2] The delay in institution of the petition is indeed inordinate. The only explanation for such delay is set out in paragraph 15 of the petition, which reads thus:

15. The petitioners have approached this Hon'ble Court by filing this petition as expeditiously as possible without wasting any time after the judgment and order dated 20th March 2014, further the petitioners have decided to challenge the award passed by the competent authority. The petitioners further state and submit that even though the award was passed way back in the year 1984 they had no knowledge of the said land acquisition proceedings as they were not issued notices under the Land Acquisition Act. As mentioned above they first time came to know

about these proceedings in the year 2002 they filed a Regular Civil Suit No. 369 of 2002 and the subsequently numbered as Regular Civil Suit No. 247 of 2005 and the same was continued upto March, 2014. The petitioners therefore the state and submit that immediately after getting the knowledge of the land acquisition proceedings they filed a suit for declaration claiming that they have become owner of the property under acquisition by adverse possession but unfortunately in Civil Revision Application No. 981 of 2012 it has been held that the Civil Court has no jurisdiction to try and entertain in the said suit other prayers on the point of acquisition proceedings were sought for declaration that the award passed and further the actions of the authorities are to declared as illegal and void-ab-initio. Therefore the petitioners have approached this Hon'ble immediately after disposal of the abovementioned Civil Revision Application and filed this writ petition challenging the land acquisition proceedings. The petitioners state that they should not be made to suffer as they approached the wrong forum and therefore, it is to be held that the petition is filed within time from the date of the knowledge of the land acquisition proceedings and from the date of the disposal of Civil Revision Application.”

3] In our judgment, the aforesaid is hardly any plausible or sufficient explanation in order to explain the inordinate delay of 30 years in institution of the petition. The statement that the petitioners had knowledge about the land acquisition proceedings until the year 2002 cannot be accepted. The Land Acquisition Act of 1894 contemplates publication of notifications, not only in the Official Gazette, but also in the local newspapers and in the locality. There is no reason, at this point of time to proceed on the basis that there were no statutory compliances as contemplated by the Land Acquisition Act of 1894.

4] In 2002, the petitioners instituted Regular Civil Suit No. 247 of 2005, *inter alia*, to challenge the award dated 17 July 1984, even though preliminary objection was raised to the maintainability of such suit, the petitioners persisted with their challenge before the Civil Court. The suit was dismissed for want of jurisdiction on 24 August 2012. The petitioners, then instituted Civil Revision Application No. 981 of 2012, which was also dismissed on 20 March 2014. In paragraph 15 of the petition, the petitioners claim to have instituted a suit for declaration that they become owners by adverse possession. Obviously, such issues cannot be gone into in the exercise of our writ jurisdiction.

5] Suffice to observe that challenge to the award dated 17 July 1984 is barred by inordinate delay and laches. In ***State of Bihar Vs. Dhirendra Kumar***¹, the Hon'ble Supreme Court has held that a civil suit is not maintainable to question notifications and award under the Land Acquisition Act of 1894, and the proper remedy was to file a writ petition. Despite this position in law, the petitioners not only instituted a civil suit in the year 2002, but persisted with pursuing this course of action, even after the Civil Court ruled that it lacked jurisdiction in the matter. In almost similar circumstances, the Hon'ble Supreme Court in ***Ganpatibai and anr. Vs. State of Madhya Pradesh***², declined to entertain a belated writ petition by observing thus:

“9. In *State of Bihar v. Dhirendra Kumar* this Court had observed that civil suit was not maintainable and the remedy to

1 1995 (4) SCC 229

2 2006(7) SCC 508

question notification under Section 4 and the declaration under Section 6 of the Act was by filing a writ petition. Even thereafter the appellant, as noted above, pursued the suit in the civil court. The stand that five years after the filing of the suit, the decision was rendered does not in any way help the appellant. Even after the decision of this Court, the appellant continued to prosecute the suit till 2001, when the decision of this Court in 1995 had held that suit was not maintainable.

10. That being so, the learned Single Judge and the Division Bench were justified in holding that the writ petition was highly belated.

11. We find no infirmity in the order of the learned Single Judge as affirmed by the Division Bench to warrant interference”.

6] In the present case, the delay is of almost 30 years or thereabouts. Time and again, the Hon'ble Supreme Court has disapproved entertainment of belated writ petitions, to challenge awards made under the Land Acquisition Act of 1894.³

7] For all the aforesaid reasons, we dismiss this petition. There shall however, be no order as to costs.

(CHIEF JUSTICE)

(M.S.SONAK, J.)

³ Hari Singh and ors. Vs. State of U.P. and ors. - (1984)2 SCC 624; Municipal Corporation of Greater Bombay Vs. The Industrial Development Investment Co. Pvt. Ltd. - AIR 1997 SC 482 = 1996 (11) SCC 501; Swaika Properties (P) Ltd. and anr. Vs. State of Rajasthan and ors. - (2008) 4 SCC 695; Larsen & Toubro Ltd. Vs. State of Gujarat and ors - (1998) 4 SCC 387; and Govt. of A.P. And ors. Vs. Kollutla Obi Reddy and ors. - (2005) 6 SCC 493