

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3122 OF 1996

Smt. Narmadaben K. Divecha
since deceased through her legal heirs ..Petitioners

v/s.

The Union of India & Ors. ..Respondents

Mr. R.Z.Morey i/b. A.V.Joshi for the Petitioner.
Mr.S.S.Deshmukh a/w. Parag Vyas for the Respondent nos.1 to 5.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : JULY 25, 2016.**

P.C.

1. Heard Mr. Morey, learned Counsel for the petitioner and Mr. Deshmukh, learned Counsel for the respondents.
2. The petitioners have challenged notifications dated 4.9.1995 (Under Section 4 of the Land Acquisition Act, 1894) and Notice dated 17.4.1996 (Under Section 9 and 10 of the Land Acquisition Act, 1984) for acquiring the Land admeasuring 2975 sq. meters (as per measurement made under the Land Acquisition Act, 1894) bearing CTS Plot No. PTS-82/4 situated at Raberi Road, Diu. The writ

petition was admitted and acquisition proceedings were stayed vide order dated 7.10.1996. The stay continues to be in force till today.

3. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 came into force on 1.1.2014.

Section 24(1)(a) of the Act reads as follows:

“Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894)-

(a) where no award under Section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or”

4. It is thus clear that if the respondents wish to continue with the acquisition proceedings which are impugned herein they can do so only under the provisions of the new Act.

5. Mr. Deshmukh, learned Counsel for the respondents fairly stated that as of today award is not passed in pursuance to the notification which are subject matter of the petition. He also

concedes that the possession of the land in question is not with them.

6. In the above circumstances, the acquisition initiated under the impugned notification stands lapsed. Needless to mention that the respondents are at liberty to initiate fresh acquisition, if they so desire, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act , 2013.

. Petition is accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)