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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8275 OF 2015

Shri. Dhruhva Arjun Thakur ... Petitioner

Versus

The Special Land Acquisition Officer,
Metro Centre, Uran & Ors. ... Respondents

Mr. S.C. Naidu a/w Mr. Aniketh Poojari, Saurabh Patil i/by Mr.
A.S. Patil for the petitioner.

Mr. Vinod Sakpal i/by Mr.Milan Bhise for respondent no. 5.

Ms.Nisha Mehera, AGP for the respondent nos. 1 to 3 State.

**CORAM : SHANTANU KEMKAR &
MAKARAND KARNIK, JJ.
DATED : OCTOBER 07, 2016.**

P.C.

Parties through their counsel.

2. Liberty to file vakalatnama is granted to the petitioner.

3. The case of the petitioner is that in view 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'), which came into force from 1.1.2014, the said land acquisition proceedings initiated under the Land Acquisition Act 1894 (for short, 'Act of 1894') has lapsed.

4. We have gone through the reply filed by the respondent nos. 1 to 3 State. In paragraph nos. 10, 11 and 13, the State has taken the following stand :

“10. I further state that, as per the award under the Old Land Acquisition Act, the possession is already been taken and handed over to CIDCO and in turn to N.J.P.T. It is therefore, admitted that the compensation is not paid to the Petitioner and it is deposited with the Administrator of Evacu Property wrongly.

11. I further state that as per the letter of the Collector, the mistake committed has been rectified and the Petitioner is recommended to the Deputy Collector Land Acquisition Metro Central Uran to give compensation.

13. I further state that , as per the award under the Old Land Acquisition Act, the possession is already been taken and handed over to CIDCO and in turn to J.N.P.T. It is therefore, admitted that the compensation is not paid to the Petitioner and it is deposited with the Revenue Deposite (R.LD.). I therefore, state that, further orders may be passed in the interest of justice. “

5. Having regard to the stand taken by the State Government, it is clear that though the respondent State has taken physical possession of the land from the petitioner and has handed over the same to respondent no. 5 through respondent no. 4 but the compensation has not been paid to the petitioner. The Supreme Court in the case of Pune Municipal Corporation and Anr. Vs. Harakchand Misirimal Solanki & Ors. In Civil Appeal No. 877 of 2014 arising out of SLP (C) No. 30283 of 2008 vide Judgment

dated 24.1.2014 in paragraph 17 has observed thus :

“17. While enacting [Section 24\(2\)](#), Parliament definitely had in its view [Section 31](#) of the 1894 Act. From that one thing is clear that it did not intend to equate the word “paid” to “offered” or “tendered”. But at the same time, we do not think that by use of the word “paid”, Parliament intended receipt of compensation by the landowners/persons interested. In our view, it is not appropriate to give a literal construction to the expression “paid” used in this sub-section (sub-section (2) of [Section 24](#)). If a literal construction were to be given, then it would amount to ignoring procedure, mode and manner of deposit provided in [Section 31\(2\)](#) of the 1894 Act in the event of happening of any of the contingencies contemplated therein which may prevent the Collector from making actual payment of compensation. We are of the view, therefore, that for the purposes of [Section 24\(2\)](#), the compensation shall be regarded as “paid” if the compensation has been offered to the person interested and such compensation has been deposited in the court where reference under [Section 18](#) can be made on happening of any of the contingencies contemplated under [Section 31\(2\)](#) of the 1894 Act. In other words, the compensation may be said to have been “paid” within the meaning of [Section 24\(2\)](#) when the Collector (or for that matter Land Acquisition Officer) has discharged his obligation and deposited the amount of compensation in court and made that amount available to the interested person to be dealt with as provided in [Sections 32](#) and [33](#).”

6. Thus in view of the stand taken by the respondents in their reply, though the compensation has been deposited with the Administrator of the Evacue Property wrongly, but the same cannot be said to be paid to the petitioner. In view of the aforesaid, the

acquisition proceedings are declared to be lapsed. At this juncture, learned counsel for the petitioner, on instructions from the petitioner who is present in person, has stated that the petitioner is not interested in taking back the possession of the land from the respondents and he wants the compensation under the Act of 2013. In view of the aforesaid, we direct the State Government to follow the procedure for grant of compensation under the Act of 2013 and the compensation be determined and an Award to that effect be passed in accordance with law within six months from the date of receipt of copy of this order.

7. Petition stands disposed of in the aforesaid terms.

(MAKARAND KARNIK, J.)

(SHANTANU KEMKAR, J.)