

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.747 OF 2014

Padma Suresh Lanke & Ors. Petitioners

V/s.

The State of Maharashtra & Ors. Respondents

Mr. Nambiar Sasikumar T.C. Padmanabhan for the Petitioners.

Ms. Geeta Shastri, A.G.P., for Respondent Nos.1, 2 and 4.

Mr. Alok Kumar Prabhune, C.A. of the Petitioners, is present.

CORAM : S.C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 20TH JULY, 2016.

P.C. :

1. The Petitioners have filed this Writ Petition under Article 226 of the Constitution of India for issuance of a writ of certiorari or any other appropriate writ, order or direction calling for certain records of the alleged acquisition proceedings. Those land proceedings were under the Land Acquisition Act, 1894. The proceedings culminated in an Award and, eventually, after hearing both sides, this Court restricted the issue on 23rd March 2015 to payment of compensation. Therefore, this Court directed the State Government to file an affidavit dealing with the limited aspect of payment of compensation as per the Award dated 23rd March 1967.

2. An affidavit-in-reply has been filed by the State, in which it is stated that the Petition suffers from delay and laches. The Award is declared on 23rd March 1967. The possession of the land has been taken on 26th November 1969. Thus, the land vests in the State. As far as payment of compensation is concerned, the affidavit-in-reply, in para 5, states as under :-

“5. I say that as per the Cash Book Payment Register maintained in the office of the SLAO (6), for a period of 08.03.1967 to 19.02.1968, bearing Register No.7, at page No.12 Sr. No.9, it is shown that a sum of Rs.1,73,676=58 has been paid to the owner of Mr. Suleman Hazi Mohammed Chennoy on 06.04.1967 in respect of LAQ/SR/1/37 Kole Kalyan and a sum of Rs.4,644=12 is credited to Reserve Bank of India vide Cheque No.10 dated 22.5.1967 in respect of Case No.LAQ/SR/1/37 on 19.05.1967. I say that a sum of Rs.15,863=10 is also paid to Mr. Suleman Hazi Mohd. Chennoy on 13.3.1970 in respect of Case No.LAQ/SR/1/38. I say that the contention of the Petitioner that the amount has not been paid and the property is not acquired and the Award has not been declared is totally incorrect.”

3. In terms of these statements and which are supported by the record, we do not think that we can assist the Petitioners any further. The Petitioners' Advocate pleaded no instructions when this matter was called out today. He stated that he has returned the papers to the Petitioners.

One gentleman appeared in the Court and identified himself as Alok Kumar Prabhune, who is claiming to be the power of attorney holder of the Petitioners.

4. He seeks an adjournment on the ground that the Petitioners desire to engage another Advocate.

5. We do not think that any useful purpose would be served by granting an adjournment. The Petitioners have no right, title and interest in the land or the property. The compensation for acquisition of the same has also been paid. The acquisition proceedings cannot be challenged after such an enormous and unexplained delay. As a result, we decline his application for adjournment.

6. The Writ Petition is dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.] [S.C. DHARMADHIKARI, J.]