

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4964 OF 2016

PRADIP VASANTRAO DESHMUKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.G.S.Thigale, Advocate for the petitioner
Mrs.R.P.Gaur, AGP for the respondent/State
Mr.A.S.Bajaj, Advocate for the respondent No.4

**CORAM : S.V. GANGAPURWALA &
S.M. GAVHANE, JJ.**

DATED : 07.12.2017

P.C. :-

. Learned Advocate for the petitioner submits that the award is passed on 10.01.2007. However, no compensation or the land in lieu of compensation has been received by the petitioner. In view of the provision of Sub-Section 24(2) of the Land Acquisition Act the acquisition proceeding stands lapsed.

2. Mr. Bajaj, learned counsel for the respondent relies upon the judgment of full bench of this Court in the writ petition No.2827/2014 dated 13.10.2017 and submits that the provision of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act is not applicable to

the acquisition under the Maharashtra Regional Town Planning Act.

3. The argument of Mr. Thigale, learned counsel for petitioner is that as the compensation is not paid though the award is passed as such the acquisition proceeding lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act

4. It is not disputed that the acquisition proceedings were initiated as per Section 126 of the MRTP Act.

5. Full bench of this Court in writ petition No.2827/2014 with connected writ petitions under the judgment dated 13.10.2017 held as under:

76. Thus, to conclude, it is clear that since Section 24(2) of the REFCTLARR provides different time frame and lapsing of acquisition on default, it cannot be applied to the acquisition initiated under Section 125 to 127 of the MRTP Act. The MRTP Act has not undergone any change from its character as a complete code. Section 24(2) of the RFCTLARR will apply only if the acquisition proceedings are "initiated" under the Land Acquisition Act, and cannot apply if they are initiated under

Section 125 to 127 of the MRTP Act. The view taken by the Division Bench of this Court in the Case of Hanumanrao Morbaji Gudadhe lays down correct position of law that Section 24(2) of the RFCTLARR Act cannot apply to acquisition under Section 125 to 127 of the MRTP Act. The subsequent amendments to the MRTP Act, framing of Rules by the State, and the proviso to Section 125 have not brought in any change in the position of law in this regard.

77. In the result, we answer the reference as under:

"The Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is not applicable to acquisition proceedings initiated in terms of Section 125 to 127 of the MRTP Act".

6. In view of the authoritative pronouncement of full bench of this Court the contention of the petitioner cannot be accepted.

7. The writ petition stands dismissed. No costs.

[S.M. GAVHANE, J.]

[S.V. GANGAPURWALA, J.]