

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

BENCH AT AURANGABAD.

WRIT PETITION NO.5058 OF 2016

Sau.Nirmalatai Yuvraj Mahajan ... Petitioner.

Versus

The State of Maharashtra
and others. ... Respondents.

...
Mr.A.B.Kale, advocate for the petitioner.
Ms.R.P.Gour, A.G.P. for the State.

...

**CORAM : S.V.GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

Date : 29.09.2017.

PER COURT :

1. Mr.Kale, learned counsel for the petitioner has placed on record the amendment. The petitioner was granted leave to amend under order dated 29.6.2017. The said amendment is accepted.

2. Mr.Kale, learned counsel submits that

the land of the petitioner bearing Gat No.169/1/2 and Gat No.169/2/2 situated at Hivarkheda (Bk.), Tq.Jamner, Dist.Jalgaon is acquired and the award is passed on 20.6.2001. The land admeasuring 81 Ares from Gat No.169/1/2, so also 81 Ares from Gat No.169/2/2 is acquired. The petitioner also filed Reference U/s 18 of the Land Acquisition Act. The said Reference is allowed. The learned counsel submits that the petitioner has also received enhanced amount of compensation as per the award passed by the Reference Court U/s 18 of the Land Acquisition Act.

3. Learned counsel submits that possession of the said land is not yet taken and the Respondents also do not require the said land. In view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 if the possession is not taken within five (5) years of passing of the award then the acquisition stands lapsed.

4. Mrs.Kutti, learned counsel for the

acquiring body - Respondent No.4 states that the Executive Engineer, Waghoor Dam, Division Jalgaon has filed affidavit thereby unequivocally stating that Respondent No.4 has no objection to return the land of the petitioner acquired under the award of the year 2001. The learned counsel submits that the petitioner be directed to refund the amount under the award passed by the SLAO and the award passed by the Reference Court along with interest at the rate of Rs.15% p.a.

5. We have heard learned A.G.P.

6. It is not disputed by the Respondents that though the award is passed in the year 2001, the possession is not taken by the Respondents as yet. Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 explicitly lays down that if five years the possession is not taken, the acquisition stands lapsed.

7. In view of the above, the acquisition

stands lapsed. The acquisition pursuant to the award dated 30.6.2001 in respect land Gat No.161/1/2 admeasuring 81 Ares and Gat No.169/2/2 admeasuring 81 Ares both situated at Hivarkheda (Bk.), Tq.Jamner, Dist.Jalgaon, stands lapsed. The said lands are released from acquisition. The petitioner shall refund the amount to the Respondents i.e. the amount of compensation received pursuant to the award passed by the SLAO, so also the enhanced amount of compensation pursuant to the award passed by the Reference Court U/s 18 of the Land Acquisition Act, to the Respondents with interest at the rate of Rs.6% p.a. within a period of two (2) months. The payment of said amount as directed above is condition precedent.

8. Rule accordingly made absolute in above terms. No costs.

(MANGESH S. PATIL, J.)

(S.V.GANGAPURWALA, J.)

