

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 11953 OF 2016**

1. Amruta Dagadu Lahamge
Age 85 years, Occu:Agri
2. Datta Amruta Lahamge, ... **Petitioners**
Age 37 years, Occu:Agri
Both R/o Rajur Tq. Akole
Dist. Ahmednagar

WRIT PETITION NO. 12023 OF 2016

- Kisan Dhawla Rawate ... **Petitioner**
Age 75 years, Occu: Agri.
R/o Rajur, Tq. Akole,
Dist. Ahmednagar

WRIT PETITION NO. 11956 OF 2016

1. Shantaram Nana Pandit (died)
Through legal heirs.
- 1-A Ganesh Shangaram Pandit
Age 50 years, Occu: Agri
- 1-B Yinayak Shantaram Pandit ... **Respondents**
Age 37 years, Occu: Agri
Both R/o Rajur Tq. Akoli
Dist. Ahmednagar

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai 32
2. The Additional Commissioner,
Nashik Division, Nashik
3. The Collector, Ahmednagar, ... **Respondents.**
Dist. Ahmednagar
4. The Land Acquisition Officer
No.13, Ahmednagar,

5. The Executive Engineer, ... **Respondents in**
Uppar Pravara Dam Division, **all the**
Sangamner (Ghulewadi) **matters.**
Tq. Sangamner, Dist.
Ahmednagar

Mr. S. K. Shinde, Advocate for Petitioners

Mr. A. R. Kale, Mrs. M. A. Deshpande and Mr. S. B. Joshi, AGPs for Respondents 1 to 4 State in the respective petitions.

Mr. B. R. Survase, Advocate for Respondent No. 4 in all the matters.

**CORAM : R. M. BORDE &
K. L. WADANE, JJ.**

DATE : 20th April, 2017

JUDGMENT (Per R. M. Borde, J.):

1. Rule. Rule made returnable forthwith.

2. With the consent of the parties, taken up for final disposal at the admission stage.

3. The petitioners are praying for quashment of acquisition proceedings and final awards passed on 20.03.1987 and 24.01.92 in respective petitions. The land belonging to the petitioners have been acquired for Nilwande Dam-2. It is stated that though the awards were declared and the petitioners were paid amount of compensation, however, the possession of the acquired property has not be taken over by the acquiring body. The petitioners as such, contend that in view of operation of Section 24(2) of the Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the proceedings in respect of acquisition initiated under the Land Acquisition Act 1894 shall be deemed to have lapsed. The petitioners have also expressed their willingness to refund the amount of compensation received by them with interest @ 6% per annum from the date of receipt of such amount till the date of repayment.

4. In response to the notice issued by this Court, the acquiring body has caused appearance and presented affidavit in reply. It is stated in the affidavit in reply that due to change in alignment of Nilwande Dam, the acquired lands cannot be utilized for the project. It is specifically contended that the acquired lands cannot be used for the purpose for which those were acquired. It is further stated that since there is a proposal for handing over the possession of the land in favour of one Government Industrial Institution, Rajur, request made by the petitioners cannot be considered. It is also further stated that the State Government has not communicated anything in this regard. The acquiring body has expressed willingness to relinquish the lands on refund of amount

of compensation together with interest as may be prescribed by the High Court.

5. It is pointed by the learned counsel appearing for the petitioners that the Industrial Training Institute has already acquired some other property and the Institute has been established at village Rajur Taluka Akole and as such, the purpose for which the land is stated to have been reserved also does not remain relevant.

6. The contention of the petitioners, relying upon provisions of Section 24(2) of the Act, 2013, deserves favourable consideration. Section 24 of the Act of 2013 reads as under:

"24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.-

(1)

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been accepted, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

7. It is not a matter of dispute that award has been passed in the matter five years prior to the enforcement of the Act, 2013 and physical possession of the land is still with the petitioners and has not been taken over by the acquiring body. In this view of the matter, proceedings in respect of acquisition initiated under the Land Acquisition Act, 1894 shall be deemed to have lapsed and the appropriate Government, if it so chooses, have an option to initiate the proceedings of such land acquisition afresh in accordance with the provisions of the Act of 2013. As has been recorded above, the petitioners have expressed their willingness to refund the amount of compensation received by them together with interest @6 per annum from the date of receipt of the amount. The petitioners, as such, shall repay the amount as specified above to the acquiring body within a period of three months from today. The proceedings of acquisition and the award declared on 20.03.1987 and 24.01.92 under the Land Acquisition Act,

1894, to the extent of petitioners, shall stand lapsed.

8. Rule is made absolute accordingly to the extent as specified above. Writ petitions disposed of. In the facts and circumstances of the case, there shall be no order as to costs.

(K. L. WADANE, J.)

(R. M. BORDE, J.)

JPC