

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 491 OF 2009
WITH
CIVIL APPLICATION NO. 841 OF 2017

Sudhir Shankar Sable and Ors.	}	Petitioners
versus		
The District Collector, Pune	}	
and Ors.	}	Respondents

WITH
WRIT PETITION NO. 1755 OF 2009

Babasaheb Fatehlal Mistry, since	}	
deceased, by legal heirs Malika	}	
Babasaheb Mistry and Ors.	}	Petitioners
versus		
The District Collector, Pune	}	
and Ors.	}	Respondents

Mr. Sagar Kursija i/b. Mr T. D. Deshmukh
for the petitioners in WP/491/2009.

Mr. Manoj Badgujar i/b. Mr. A. P.
Kulkarni for the petitioners in
WP/1755/2009.

Mr. Rajdeep Khadapkar for respondent
nos. 3 and 4 in WP/491/2009.

Mr. P. G. Sawant-AGP for respondent nos.
1, 2, 5 and 6.

CORAM :- DR. MANJULA CHELLUR, C.J. &
N.M.JAMDAR, J.

DATE :- AUGUST 1, 2017

P.C. :-

1. The petitioners before this court contend that the acquisition of the land in question lapses, since no compensation is paid to the land losers till date.

2. In an another writ petition being Writ Petition No. 1754 of 2009 (*Piroze M. Khan and Anr. vs. The District Collector, Pune and Ors.*) a Division Bench of this court has passed an order on 16th August, 2016 allowing the petition, where, the land of the petitioners in the said writ petition came to acquired for the very same purpose, for which the land of the present petitioners came to be acquired under the same notification. The land of those petitioners is also part of the same acquisition proceedings. In Writ Petition No. 1754 of 2009, the defence of the respondent-corporation and the State was that a Review Petition is filed in the Apex Court at the instance of the Municipal Corporation so far as the judgment in the case of *Pune Municipal Corporation and Anr. vs. Harakchand Misirimal Solanki and Ors.* (2014) 3 SCC 183. Though the Review Petition is filed, as observed by the learned Bench, till date, there is no stay to the judgment in the case of *Harakchand Misirimal Solanki* (Supra).

3. In these circumstances, there is no impediment for this court to dispose of the matters placing reliance on the principles laid down in the case of *Harakchand Misirimal Solanki* (supra).

4. Admittedly, the award pertaining to the land of the petitioners is more than five years old as on 1st January, 2014. Sub-section (2) of section 24 of the Right to Fair Compensation

and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 clearly contemplates the consequences if compensation is not paid as on 1st January, 2014 or possession of the land acquired is not taken. In either of the situations, the consequence is lapsing of the land acquisition proceedings. It is by operation of law. Under these circumstances, the sole contention raised by the respondent authorities that a Review Petition is pending before the Apex Court, so far as *Harakchand Misirimal Solanki's* case (supra) is concerned, cannot come in the way of the disposal of the present petitions. Accordingly, the writ petitions deserve to be allowed and they are allowed following the law laid down by the Apex Court in the case of *Harakchand Misirimal Solanki* (supra).

(N. M. JAMDAR, J.)

(CHIEF JUSTICE)