

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 1839 OF 2014

Shri. Nivrutti Yashwant Patil And Ors.

...Petitioners

Versus

The Special Land Acquisition Officer, Kolhapur
And Ors.

...Respondents

Mr.Kuldeep Nikam, for the Petitioners.

Ms.S.S.Bhende, AGP for the Respondents-State

**CORAM :- DR. MANJULA CHELLUR, C.J., &
G. S. KULKARNI, J.**

DATE:- FEBRUARY 8, 2017

P.C.:

1. Heard the learned Counsel for the Petitioners as well as the learned AGP for the Respondents-State.

2. The Petitioners are before us challenging the acquisition proceedings initiated in respect of land admeasuring 2 H, 20 R in Gat No.3137 (part) situated at Village Bhadole, Taluka Hatkalange, District Kolhapur. According to the petitioners, initially the land was held by one Yashwant Pandu Patil who died way back in 1967. Subsequently, mutation came to be changed in the name of legal representatives of said Yashwant Patil. On 5 April 2002 petitioner No.1 is said to have received notice under Section 4(1) of the Land Acquisition Act sent by Respondent No.1 and the same came to be

replied. On 4 January 2003 another application came to be filed resisting acquisition proceedings before the learned Additional Commissioner, Pune in Revision Application No.2 of 2003. A report was called in this regard and subsequent to the report on 31 October 2008, respondent No.2 passed an order rejecting the revision application of the petitioners. Thereafter, the matter was taken before the concerned department of Mantralaya and since they were not successful in getting favourable order, the present writ petition came to be filed challenging the acquisition notice issued way back in the year 2002. During the pendency of this Writ Petition which came to be filed in the year 2014 in spite of several adjournments and specific direction way back in March, 2016, the respondents-authorities have not bothered to place on record any details in respect of completion of acquisition proceedings resulting in any award under Section 11 of the Land Acquisition Act, 1894. The petitioners are not challenging service of notice nor consideration of their objections. They are seeking benefits flowing out of non-compliance of certain statutory requirements by the authorities after initiating the land acquisition proceedings. According to the petitioners, the main deficits so far as the acquisition proceedings are (i) the petitioners are still in possession of the land; (ii) no award as such is passed till date; (3) no compensation amount is received. In spite of such averments in the writ petition, till date there is nothing on record whether there was notification under Section 6(1) of the Land Acquisition Act followed by final award under Section 11, followed by taking over possession so as to get the land vested with the Government in terms of Section

16 of the Land Acquisition Act of 1894. In other words, nothing is placed on record indicating the steps taken by the respondents-authorities in completing the land acquisition proceedings in terms of the repealed Act of 1894.

3. Coming to the averments by virtue of amendment to the writ petition, the petitioners seek intervention of this Court to hold that the acquisition proceedings initiated in the year 2002 get lapsed for non-compliance of requirement under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short 'the 2013, Act'). Section 24(1) and 24(2) of the 2013 Act, both are relevant so far as the present case is concerned. If no award is passed under Section 11 of the Land Acquisition Act 1894, in terms of sub-section (1) of Section 24 of the 2013 Act, the consequence would be that the compensation has to be determined in terms of the 2013 Act.

4. Then, if an Award is passed before coming into force of the 2013 Act that is five years or more prior to the commencement of the 2013 Act, if possession of the land is not taken or the compensation payable is not paid to the petitioners in terms of Section 31 of the Act of 1984, the land acquisition proceedings gets lapsed. If the land required for the purpose for which it was intended to be acquired still exists, the only recourse open to the authorities is to initiate fresh acquisition proceedings in terms of the 2013 Act. In the present case, the very long silence of the respondents/authorities in

not placing any information with regard to the progress in the acquisition proceedings subsequent to Section 4(1) notification issued under the Act of 1894, we are of the opinion that the Writ Petition deserves to be allowed. The Writ Petition is accordingly allowed.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)