IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1783 OF 2016

Pandurang Mahadev Morbale .. Petitioner
V/s
The State of Maharashtra & Ors. .. Respondents

WITH
WRIT PETITION NO. 6165 OF 2016

Maruti Dattu Morbale .. Petitioner
V/s
The State of Maharashtra & Ors. .. Respondents

Mr. Nagesh Chavan i/b Mr. Nikhil Pawar for the petitioners.
Mr. A.B. Vagyani, Government Pleader with Mr. P.G. Sawant, AGP for the State.
Mr. V.B. Rajure for respondent no.6.

CORAM: DR. MANJULA CHELLUR, CJ. &
G.S. KULKARNI, J.

DATE : 25th APRIL 2017

P.C.:

The only question in this writ petition arises for our consideration is whether the land acquisition proceedings initiated in respect of the land in question was taken to its logical conclusion completing the proceedings or it lapses in terms of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation

and Resettlement Act, 2013 [for short "2013 Act"]. Sub-section (2) of section 24 of the 2013 Act contemplates lapsing of acquisition proceedings under two possibilities; one is, not taking possession of the land acquired and another is not paying the amount in terms of the Land Acquisition Act, 1894 [for short "1894 Act"].

2. Over and above this, the award has to be five years old or more as on 1st January 2014 when the 2013 Act came into force. In the present case, the date of award admittedly is 10th March 1975. So the award is more than five years old as on 1st January 2014.

3. In para 12 of the affidavit in reply filed on behalf of respondent nos.1 to 5, it is stated in categorical terms as under:

> *"12. With reference to para 11 of the petition, I say that the contents in this para are true except that the respondent authorities till today did not take any physical possession of the suit properties and the present petitioner is in possession and cultivating the suit properties. Further, the respondent was taking physical possession as per the Mutation Entry No. 7659 dated 22/02/1994 and as per the Kabje Patii acquired taken in possession of the suit property."*

It clearly indicates that the physical possession of the property was never taken from the petitioners and they continue to be in physical possession of the property.

4. In para 19 of the affidavit in reply, though it is stated that compensation amount was accepted by all interested persons, this answer is vague without mentioning with certainty whether the petitioner was paid and if paid, whether the amount was paid in terms of section 31 of the 1894 Act. Definitely this kind of assistance from respondent nos.1 to 5 would not take anyone to any conclusion. In the present case, we need not ponder over the issue of payment of compensation since para 12 suffices the purpose for which the petition is filed.

5. In that view of the matter, we are of the opinion that in terms of sub-section (2) of section 24 of the 2013 Act, the land acquisition proceedings have lapsed. If the respondent Authorities are intending to proceed with acquiring the land of the petitioners, it has to be started afresh.

6. With the above observations, the writ petition is disposed of.

(G.S. KULKARNI, J.) **CHIEF JUSTICE**